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# FARM TENANCY IN THE UNITED STATES

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## I

IN THE history of the conquest of the North American continent and the foundation of American democracy one of the most dramatic chapters was undoubtedly the distribution and appropriation of the farmland resources. For millions of immigrants from the old world, with its scarcity of land and its hierarchical and stationary order of property, there was an irresistible lure in the belief that here an almost inexhaustible treasure of virgin soil was available to those who were courageous enough to clear the woods or to break the prairie sod in the wilderness. In the effort to settle the continent the government gave hundreds of millions of acres of land away for "bread and salt" to any who claimed it, and promised to build a homestead and to pay federal taxes in the future. Around the beginning of this century that land supply had mostly been appropriated by private persons, though large areas remained in the hands of the railroad companies as a bonus for their participation in the conquest of the empire. Farming a homestead of one's own and being a free-man-and-good had been the profoundest desire of the best pioneers and a basic concept of the once leading rural society, this in spite of the fact that the frontier was rolled westward also by a wave of land speculation. Millions of single family farms as the undisputed property of their independent and equal operators "in overalls" is something that is inseparable from the American interpretation of a liberal democracy. Still today the federation of the forty-eight states has under the Constitution its timeless roots in the freeholding farm population. According to the fifteenth census more than 27 states had in 1930 more than 50 per cent rural population.

It is beyond dispute that farmland property in the hands of tillers of the soil creates in the citizens a certain responsibility and balanced conservative attitude which cannot be replaced and which has always contributed a most valuable stabilizing element in public opinion and politics. Thus a process of increasing separation of the tillers of the soil from the vital right of property in the land cannot but be taken as a serious phenomenon of national importance. It lies somewhere in the neighborhood of the growth of trusts and big corporations in industries and trades. After Lincoln's homestead act, which was the last decisive step toward the distribution of rural wealth, the country developed so rapidly that not much time was left to ponder about the basic constitution of land tenure. Today it is not only a natural reaction but a most promising signal that the American nation is finally alarmed by the decided trend toward an increasing number of farmers excluded from farm property, a trend which is rightly considered as a portent of a critical and most undesirable change in the country's agricultural set-up.

The statistical picture of the development of tenure is shown in Table 1. These figures indicate that through two generations the proportion of landless farmers has increased from 25 per cent to

TABLE 1<sup>a</sup>

Year	Number of Farms Operated by Owners <sup>b</sup>	Number of Farms Operated by Tenants	Extent of Tenant Operation		
			In % of all farms	In % of all farm land	In % of all crop land harvested
1880	2,984,037	1,024,435	25.5		
1890	3,269,486	1,294,773	28.3		
1900	3,712,255	2,024,848	35.3	23.3	
1910	4,006,693	2,354,592	37.0	25.8	
1920	3,993,420	2,454,719	38.0	27.7	
1930	3,624,203	2,664,341	42.3	31.1	44.7 (1929)
1935	3,947,127	2,865,134	42.0	31.9	42.1 (1934)

<sup>a</sup> Compiled from U. S. Censuses of Agriculture and U. S. Department of Commerce, *Statistical Abstract*.

<sup>b</sup> Includes also farms operated by managers.

42 per cent, and that the percentage of the total acreage operated by tenants has grown even more. In 1929 the tenants' share in the total acreage of crop land harvested was already 45 per cent. Only during the five-year period 1930-35 did the percentage of farms operated by tenants show a decline, though it was but a negligible three tenths of a per cent. This was probably an accidental by-product of certain southern adjustments to the AAA policy.

With 42 per cent of the farms and 45 per cent of the harvested crop acreage under tenancy this form of land tenure and its increasing trend have become one of the most startling features of American agriculture, and this as a sheer haphazard result of a laissez faire policy and of an economic automatism that have been dominant for more than two generations. The significance of this development is not equally marked in all the states. In fact, the geographical distribution of tenancy is very unequal, and therefore it is in some parts of the country, strangely enough in the richest as well as in the poorest, an even more dominant and regrettable tendency. Table II shows that of the nine sections of the United States two have less than 20 per cent of all farms under tenancy, three have from 20 to 30 per cent and four have between 40 and

TABLE II<sup>a</sup>

Section	1880		1935	
	Farms operated by Owners	Farms operated by Tenants	Farms operated by Owners	Farms operated by Tenants
New England	189,572	17,660	146,031	12,210 (8%)
Middle Atlantic	395,275	93,632	333,413	64,271 (16%)
East North Central	783,782	201,491	764,933	318,754 (29%)
West North Central	566,443	146,252	677,092	502,764 (43%)
South Atlantic	411,404	232,590	616,123	530,921 (46%)
East South Central	360,309	209,430	513,586	623,633 (55%)
West South Central	205,247	111,662	460,671	676,900 (60%)
Mountain	23,199	1,844	199,307	72,085 (27%)
Pacific	48,806	9,874	235,971	63,596 (21%)
U. S. Total	2,984,000	1,024,000	3,947,000	2,865,000 (42%)

<sup>a</sup> Compiled from U. S. Censuses of Agriculture.

60 per cent. It is in the Middle West and the South, the most productive agricultural parts of the country, that the tenancy system is most prevalent. The state of Mississippi has the record of 70 per cent of all its farms under tenancy.

It is not too long ago that tenancy was traditionally considered in this country as the "social ladder" in agriculture, offering to young men with little or no capital an opportunity to climb upward and to save enough to ascend to ownership. The latest reports from Washington and many press releases seem to indicate that the American public has changed its mind and tends now to hold tenancy responsible for many of the agricultural evils, such as poverty and degeneration, irresponsibility and insecurity, lack of improvements on farms, soil depletion and many others. Consequently a wholesale attack upon tenancy is under way and promises to continue for some time to come. Such a judgment appears to be derived from the fact that the agricultural situation offers a desolate prospect in some parts of the country where tenancy is the dominant system of land tenure. In the following discussion the validity of such general assumptions and especially the implications of the conclusions and proposed policies shall be analyzed.

## II

In any attempt to evaluate the relative merits or shortcomings of tenancy under particular contemporary conditions it is necessary to interpret the economic philosophy of this form of land tenure in accordance with modern concepts of forms of enterprises. The institution of farm tenancy reaches back into the dim beginning of history and is found wherever and whenever land is appropriated.<sup>1</sup> In its forms and content more and more variations have been added, until today there is an unfortunate discrepancy between the variety of radically differing types of tenure agreements and the primitive simplicity of the collective term "tenancy." Tenancy

<sup>1</sup> Cf. Brandt, K., "Untersuchungen über Entwicklung, Wesen und Formen der landwirtschaftlichen Pacht" in *Landwirtschaftliche Jahrbücher*, vol. 66, pt. 4 (Berlin 1927).

may be the most refined instrument for a highly capitalized and prolific agriculture, or it may be the preposterous relic of a labor contract under feudal bondage. Under tenancy we may find a stationary well-to-do tenantry that can hardly be distinguished from farm owners, while we may also find a system in which land, buildings, live stock and implements, man and rural society are doomed to decay. Examples to illustrate the truth of this statement may be picked at random in any country. The only thing we can say about the merits or demerits of tenancy is that it all depends. On what? Perhaps we may presently find an answer.

Ideally the meaning of modern farm tenancy may be defined as a system of partnership in a farm which is the common enterprise of two equal parties based upon a written contract for a limited period of time. The status of partnership provides for a stipulated balance between service and its equivalent to be contributed by each party. It is usually assumed that this equilibrium is safeguarded by the competitive system in the market economy. This requires that the contracts be subject to open bidding and that no monopoly situation arise on either side. For an interpretation of the real character of the partnership relation it is important to consider the operating enterprise of the farm as the center of gravity and its permanent optimum yield as the yardstick and guide for the functioning of the tenancy contract. Since farm land as a natural resource represents an important part of the national wealth entrusted to owners and operators, this interpretation introduces also an objective measuring rod for the utility of tenancy from a national point of view.

If we thus emphasize the mutual interest in the same means of production and the reciprocal service function of lessor and lessee, it can be seen that the service to be expected from the landlord is that he supply the land, buildings, pipe-drainage systems, fences, bridges, roads and similar improvements, or in other words, the fixed capital. He also has to maintain this fixed capital and perhaps increase it. From a standpoint of national economy one of his essential duties, beyond this capital supply, is to find the best

"partner" potentially available as operator for the particular farm, or in other words, to put the most capable farmer on the land bestowed upon him. The landlord has to compose a contract which fits the many purposes inherent in developing the productivity of the farm. It ought to provide for attracting and binding the best operator available, and for giving him a fair chance to make an income, while at the same time it ought to guarantee the development of the farm at its best and assure a satisfactory return to the landlord. Finally the landlord has the duty of supervising the farm to protect it against damaging exploitation in violation of the contract, although he cannot interfere too much or he may unduly hamper the initiative of a good tenant.

The tenant, on the other hand, has to supply the operating capital, including implements, livestock, seed, fertilizer and stores. He has to operate the farm to obtain high yields, but since he acts as a trustee for the landlord he has in addition the unquestionable duty of maintaining or improving the productive value of the farm entrusted to him. He has to pay to the landlord a certain rent, which ought to be sufficient to cover real estate taxes, interest and amortization on the fixed capital and to allow for the improvement of the farm, and also to compensate the landlord for his supervisory function. The rent, on the other hand, ought to be small enough to permit the tenant to earn interest and amortization on his operating capital, and a return for his management and labor, and also to build up a reserve to cover the risk of management.

On the side of the landlord the tenancy contract may be interpreted as a risk insurance, guaranteeing a certain stable return, against the hazards of operating the farm. The tenant who underwrites this insurance takes the risk but finds his reward through the opportunity of cashing all the net yield beyond the rent. This has the consequence that in times of increased risk, due to violent price fluctuations as well as to crop failure, tenants will bear the brunt of the losses. They will therefore be the front which protects the landlords. Tenants may go bankrupt when landlords still hold

their own. As long as the contracts grant sufficient opportunities compared with the risk this need not necessarily lead to a condemnation of tenancy. But tenancy proper has another important effect. It increases the capital intensity of farming by adding the tenants' own capital.

In a wider sense both parties are bound together by the farm as their common interest. If modern outright tenancy of the ideal type just outlined is to operate to the satisfaction of both parties or, to express it in objective terms, to the mutual benefit of the farm, certain presuppositions have to be fulfilled. One of the most essential deals with the contract as such. It is necessary that the state, as the market police, should guarantee the validity of the contract, protect the rights of both parties impartially, and maintain the equilibrium of rights and duties. It makes an enormous difference whether the contract is interpreted merely as a private relationship between lessor and lessee, or whether certain basic concepts—such as the necessary development of the productivity of the farm as a part of the national wealth entrusted to the individual—are accepted as the moral postulate underlying tenancy in general. But even if such a progressive legal interpretation is assured it still depends on some paragraphs in the contract whether tenancy turns out to be a progressive form of agricultural enterprise or whether it merely organizes the reckless exploitation of land resources, permitting a laborless income from a capitalized real estate title.

Since farming is typically a business with a slow turnover and long-term investment, and since almost any branch of arable farming, not to speak of animal husbandry, takes several years of preparation, it is obvious that orderly husbandry can be expected from a tenant only if the term of the lease is long enough to enable him to go beyond the primitive short-term exploitation which operates under the rule of investing an absolute minimum, skimming off the maximum of returns. It is a phenomenon concomitant with the strong speculative behavior of American farmers that tenancy is built mainly upon a year-to-year lease system. The land-

lord is not willing to grant a longer term because he might lose an opportunity to raise the rent when the market is booming. The tenant accepts the short term because he likes to be able to move and to find a more promising opportunity. In this short-run attitude the farm is forgotten because the preeminent consideration is the natural fertility of the soil and not the man-made improvements.

Since the middle of the eighteenth century the Prussian state has found it to be one of the strongest means of promoting agriculture in general to lease the seven to nine hundred state farms to a picked group of tenants. But this has been possible only under leases which have a normal term of eighteen years. According to a rule of thumb among German landlords and tenants a reasonable farm lease must cover at least twice the period of the normal crop rotation. Under three-year or one-year contracts no one can expect the tenant to make any efforts beyond that interval. The shorter the term the more the tenants have to resort to migratory farming and robber farming, which are detrimental equally to the farms, the rural community, the tenants and their families.

The short term accentuates another important problem which has to be tackled in any good farm lease, and that is compensation for unexhausted or permanent improvements made by the tenant. Even under a long-term contract the tenant is forced to make his whole capital mobile as soon as he reaches the end of the lease. He has to try to remove everything that is his from the lessor's property so that on the last day nothing has to be left behind. If the farm is to be treated as the common enterprise of partners, and be developed with regard to general progress in farming, it is only logical that the tenant have a financial interest in improvements which he cannot exhaust under his term of tenure. As soon as this right is bestowed upon the tenant he will undoubtedly change his attitude. But it will certainly be necessary to establish limits as to how far he may go with improvements; otherwise the landlord might soon find himself in a position of only partly owning his farm. The provision that improvements above a certain amount of

money require the consent of or a notice to the landlord can eliminate the danger of unfair claims against the latter. Similarly a procedure for proving and appraising the value of improvements open to compensation has to be laid down.

Even this sketchy outline of a modern contract of outright tenancy indicates that it depends largely upon the validity of certain legal presuppositions, and almost equally upon the wisdom of the agreement between the parties, whether tenancy grant fair conditions to the tenant farm population and whether it operate as a progressive system of tenure. Many European states have long taken the initiative and applied compulsory reforms to farm tenancy by special legislation; some of them have reduced the proportion of tenancy but none of them has attempted to abolish it. The proportion of farms operated by tenants shows a wide range, varying for example from 6 per cent in Denmark, 11 per cent in Canada, 17 per cent in Germany, 36 per cent in Ireland, 44 per cent in Holland, 63 per cent in England and Wales, 68 per cent in Belgium, to 79 per cent in Australia; there is no tenancy in Soviet Russia, which has abolished private property in land. The fact that tenancy is interwoven with systems of agriculture of all stages of intensity and technical progress indicates at least that the proportion of tenancy is by no means a gauge for the state of agriculture or the social conditions of the farm population. Some of the countries with a relatively high proportion of tenancy have a most prosperous and modern agriculture and at the same time very satisfactory rural conditions in general.

Many reasons make it desirable to have tenancy available as a supplementary system of land tenure, even if operation by owners is the adopted general rule. It may be mentioned here that leasing parts of farms, which is not dealt with in this article, is also a necessary supplement to owner operation because it makes adjustments possible without changing property titles and thereby renders the operation of farms more efficient and elastic. Aside from the fact that tenancy is undoubtedly a superior form of operation for all land in public or corporate ownership or land

held in mortmain, it is in many situations a desirable solution also for the private owner. Illness or other disability of the owner, immaturity or old age, ownership by a woman, other professional occupation than farming, lack of experience or lack of capital and credit, may be some of the many reasons why operation through a tenant is chosen in order to avoid the sale of the farm. Tenancy is often a means for maintaining farm property in the same family, pending the owner's operation. Also for the prospective farmers tenancy is socially desirable, because it permits capable young men to start their careers as independent farm operators with little or no money and a small capital of experience at their disposal. Thus as long as tenancy is a supplement to ownership and provides a certain elasticity it may have considerable merit. The picture changes, however, when a large percentage (that is, a third or more) of the farms are operated under tenancy. Then any functional defects of tenancy are accentuated and the capital structure it represents may be a cause of increased insecurity for the farm population.<sup>1</sup>

All that has been said so far, however, concerns outright cash tenancy, which ranks at the top of the long list of types of farm leases. The opposite end of that register is marked by farm labor contracts which are only disguised under the heading of tenancy, because under this arrangement the owner does not lease the farm to a partner for operation but grants essentially the right to work on that farm. Farming belongs among the handicrafts with many types of skilled work and almost no division of labor. Moreover, the work is bound to space and time and has to be adjusted to weather conditions. All these circumstances make the supervision of the single laborer an almost impossible job, unless labor is organized in the form of gangwork, which tends to set the pace according to the most inefficient men in the gang and which also requires a constant and efficient supervision by foremen. The personal interest and initiative of the laborer must be brought into

<sup>1</sup> Cf. Brandt, K., "Die Lehre von der landwirtschaftlichen Pacht" in *Handbuch der Landwirtschaft* (Berlin 1928).

play in order to reduce the job of supervision. To harness the individual laborer successfully to his particular job on a farm he has to be granted a share in the yield. Thereby he has always the yield as his guide and he need not be under the command or constant observation of a foreman or manager.

Thus wage labor on farms may be transformed into another system which also sails under the flag of tenancy. It may be objected that sharing the yield does not necessarily change the character of tenancy but may be merely an elastic method of paying rent under farm partnership. In fact, many share tenancy contracts are just as good as cash contracts. Most of them, however, especially those called "cropper contracts," are no more than primitive labor contracts. There is no equality between the two parties to the contract; one, the landlord-employer, owns the capital, and the other, the sharecropper-laborer, is propertyless. In any other form of tenancy at least some work stock or equipment is furnished by the tenant, but here we find the essential difference that the contract is one between the haves and the have-nots, a fact which in itself eliminates the principle of partnership. As a consequence of the laborer's lack of capital he finds himself under considerable supervision, in spite of his relative freedom in relation to wage labor. The rights of the contract, which is often only a spoken agreement, lie definitely on the side of the landlord-employer and the duties on that of the laborer. Also, the type of labor is usually of the most limited scope, and every decision of farm management, including the disposal of the crop and the division of the yield, is laid down by the landlord.

That this kind of cropper, a class common only in the American South, does not belong to the category of partner tenants is shown even more clearly by the fact that usually he is not permitted one of the basic privileges of farming: production of his essential food needs, especially vegetables, milk and fruit. This leads to the utterly paradoxical situation that the tiller of the soil lives by hand-to-mouth buying from a retail store. The disparity between landlord and would-be lessee becomes even worse when the

laborer needs credit and, in the absence of any other opportunity, has to obtain it from his landlord. In industry it is customary to decry the workers' dependence on the employer in company towns, but this type of farm labor is in a condition much below that of such miners or industrial workers because of the monopoly position of landlords, the lack of competition between agricultural employers, and the creditor-debtor relation. Such a type of cropper labor is directly inherited from plantation slavery, which was abolished but, like the plantation economy itself, was not replaced by satisfactory forms of farm labor. It is often assumed by critics not familiar with the South that the solution is to transfer a larger share of income from the pockets of the landlords into those of the croppers. Unfortunately this would not work because the landlords too have a ridiculously small income. The average net income of the operators of 645 plantations investigated by the Division of Social Research of the Works Progress Administration in 1934 was \$2,572. This represents the landlord's return for labor and capital as well as any remuneration for risk bearing. Plantation farming and cropper labor together are too inefficient for this solution of the problem.

And yet it must be said that sharecropping too is not necessarily an evil of itself or a form of employment which is to be categorically condemned. The sharecropper labor contract is to be found in most European countries. Usually it is applied to the most labor-intensive, to the most skilled and difficult jobs in agriculture and horticulture, such as flower seed and vegetable seed cultivation, tobacco culture and viticulture. Where European sharecroppers live on the farm they are allowed to supply themselves with any food that they and their families need. Often sharecroppers are not housed by the landlord and have a contract only for the growing season. They are more satisfied with the share-the-crop wage than with other types of employment because they enjoy the freedom of self-responsible craftsmen and are not bound to gang labor. If they are efficient in their labor they receive the benefit of it, because they gain leisure when they save

time and they gain increased returns when they raise a better crop. In Europe the employers of sharecroppers also find this arrangement very convenient, because it is an automatic device to make labor efficient and moreover to attract a type of labor which relies upon its skill.

The reader will have good reason to ask what makes the difference between the American sharecropper system and these European equivalents. The answer is not easy, because the differences are inherent in the total environment, in the farming and labor situation, in the mentality of employers and laborers alike. But with reference to the tenancy problem it seems that certain legal provisions are essentially responsible for the difference. Sharecropper contracts in Europe are written contracts subject to labor legislation. Any claim originating in sharecropping can easily be taken to court by either party, and the proportion of the laborer's share is set either by collective bargaining or under the influence of competing employment in industries.

Between long-term cash tenancy and the type of share labor just discussed there is a wide range of gradual steps and sidebranches, showing innumerable variations according to the proportion of the product received by each party, the equipment and supplies furnished by each party, the degree of control exercised by each party and the term of tenure.

In general, tenancy places the part of the rural population occupied with operating farms in a middle position between the rural proletariat of landless farm labor and the established owner-farmer. Whether tenancy absorbs an increasing ratio of one or the other, or whether it acts as a stationary institution, is essentially an issue of government agricultural policy. But whether tenancy causes agricultural degeneration and poverty is almost exclusively a matter of the police function of the state, which through protective legislation and legal procedure can guarantee fair play, the inviolability of contracts and equal opportunities. It may be also a matter of organization of tenants to protect their interests by collective representation against the stronger second party.

TABLE III\*

Section	Total Farms	Share Contracts		Total	Share-Cash	Cash Contracts		Total	Unspeci-fied
Operated by Tenants	Share proper	Croppers	share contracts	Cash Con-tracts	Cash proper	Stand-ing	Renters	Cash contracts	
New England	11,602	2,698	2,698	95	8,071	8,071		738	
Middle Atlantic	88,190	51,174	51,174	1,127	35,879	32,879		3,010	
East North Central	304,407	182,283	182,283	33,537	76,945	76,945		11,642	
West North Central	375,019	186,704	186,704	68,316	107,568	107,568		12,431	
South Atlantic	542,088	186,986	202,526	389,512	1,977	64,594	75,313	139,907	10,692
East South Central	522,286	175,441	202,284	377,725	6,795	99,227	25,251	124,478	13,288
West South Central	526,747	288,797	156,281	445,078	13,900	55,367	4,432	59,799	7,970
Mountain	37,478	23,968	23,968	786	10,916			10,916	1,108
Pacific	46,987	19,670	19,670	1,289	24,442			24,442	1,386
U. S. Total	2,454,804	1,117,721	561,091	1,678,812	127,822	480,009	104,996	585,005	63,165
						Percentage			
New England	100.0	23.2	23.2	.8	69.6	69.6			6.4
Middle Atlantic	100.0	58.0	58.0	1.3	37.3	37.3			3.4
East North Central	100.0	59.9	59.9	11.0	25.3	25.3			3.8
West North Central	100.0	49.8	49.8	18.2	28.7	28.7			3.3
South Atlantic	100.0	34.5	37.3	71.8	4	11.9	13.9	25.8	2.0
East South Central	100.0	33.6	38.7	72.3	1.3	19.0	4.8	23.8	2.6
West South Central	100.0	54.8	29.7	84.5	2.6	10.5	.9	11.4	1.5
Mountain	100.0	64.0		64.0	2.1	29.1		29.1	4.8
Pacific	100.0	41.9		41.9	2.7	52.0		52.0	3.4
U. S. Total	100.0	45.5	22.9	68.4	5.2	19.5	4.3	23.8	2.6

\*Source: U. S. Census of Agriculture, 1935.

## III

In the United States tenancy has developed in two different lines. In one type, found in all parts of the country but particularly in the Middle West, tenancy competes with owner-operation; the tenants are fully responsible, with full freedom of cropping and of disposing of produce. Usually they own some capital, and sometimes considerable amounts; there are even tenants, in the corn belt, for example, who own enough capital to buy a farm but prefer to remain tenants, at least temporarily. On the other hand there is in the cotton belt, in addition to this kind of tenancy, a widespread use of the cropper contract. Cotton sharecropping offers by far the gravest problem; the crucial defects of the institution of sharecropping are closely interlocked with a number of other major economic, social and political evils, and consequently aggravate them. Out of a total of 2,865,155 tenants in 1935 not less than 716,256 were croppers, which means that three fourths were real tenants and one fourth farm laborers on a share-the-yield contract. More than half the croppers are Negroes.

Table III shows the regional distribution of the various types of tenancy in 1920. Among the outright tenancy contracts (omitting the cropper contracts and those of the standing renters) there were in 1920 more than twice as many share contracts as cash contracts. Probably this is the consequence of the usual short term, because only under a long-term lease can the tenant offset the risk of a relatively high cash rent by creating reserves for lean years. The share rent, while it gives a higher return to the landlord in some years, does not act as risk insurance for it does not guarantee a certain amount of income.

In the share contracts we find all sorts of agreements, from the *one fourth system* (with one fourth of the cotton crop and one third of the grain crop as the share of the landlord) through the *one third, the two fifths* and the *half share systems* to the *half and half land and stock share system*. The cash contracts also include a wide range of payments, either in a fixed amount of cash or in the equivalent in a fixed amount of commodities. The better and

the more reliable the fertility of the land and the stronger the competition for the land, the heavier the demands will be that the landlords lay upon their tenants. This finds expression in demands for equipment and supplies, or in other words for operating capital, as well as for the share ratio or the fixed amount of cash rent. In the corn belt of central Illinois landlords receive the highest revenues from their tenants, although they supply only land and buildings. With increasing land values, which reflect the potential revenue to be derived from the land, the part of the revenue which can be capitalized in the market in the form of land rent rises and thereby gives an added incentive for owners to retire and lease their farms.

A large proportion of tenancy raises no problems at all because the contract exists only between members of the farm-owning family. As far as the public interest is concerned these farms may as well be counted as operated by the owner. Unfortunately we do not know how large a proportion this is.

The principal defect in the functioning of the American system of tenant farming is the typical short term of the lease, in combination with the lack of compensation clauses for unexhausted improvements. The shortcomings of the system are increased by the absence of modern standard forms of contracts, and by the frequent lack of knowledge as to how to eradicate some of the basic evils of tenancy by better arrangement of the lease contracts. The consequence is often, and sometimes in whole regions, the slow depletion of soil and buildings and with it the "depletion of man," with a migratory tenantry as a most unwelcome by-product. The 1935 Census of Agriculture gives striking figures on the average length of farm occupancy. At the time of that census no less than 34 per cent of the tenant farmers had been on their farms less than one year, 13 per cent were in their second year on the same farm, 24 per cent had operated their farms from two to four years, 15 per cent from five to nine years, 7 per cent from ten to fourteen years, and another 7 per cent fifteen years and over. This almost unbelievable mobility of such a large and increasing part

of the farm population reveals the real crux of the tenancy problem. How can we expect leased farms to be improved, or even to have the fertility of the soil maintained, how can we expect to have trees planted, houses kept in good shape, successful campaigns carried out for eradicating weeds, if more than 70 per cent of the lessees occupy farms for less than four years and if half of these remain for less than one year? How can we expect a sound social life to develop in the rural community, or a good education to be given to children, if tenants move before they even become acquainted with their environment?

Recent public criticism has been directed mainly—apart from the alarm about the increasing separation of operation from ownership—against the lack of compensation for permanent improvements on the farm. Little attention has been paid to this destructive influence of the short-term lease. It is certainly true that the short period of occupancy has deep roots in the psychology of the farmers, but this does not change the fact that it is a very serious handicap. To counteract the farmer's restlessness and his propensity to shift from farm to farm great premiums for permanency have to be offered.

It can hardly be overstressed that the worst evils of tenancy are to be found in the cotton belt, where both sharecroppers and standing renters suffer from every possible disadvantage. Landlords offer cottages without screens, even in areas infested with malaria.<sup>1</sup> Houses for sharecroppers in general are below any reasonable minimum standard, and below the average to be found anywhere in the nation. Landlords do not grant sufficient garden land for the cropper and his family, nor do they allow him to keep poultry, cow or hogs; this forces the proletarianized sharecropper to buy at retail prices almost everything he eats. Moreover, the "tenant" usually has little control over the sale and cash return from his crop.

<sup>1</sup> See the excellent Research Monograph V of the WPA Division of Social Research by J. T. Woofter, *Landlord and Tenant on the Cotton Plantation* (Washington 1936).

England, the "classical" country of tenancy, has a long record of legal reform of this form of land tenure. The first landlord and tenant act was passed in 1851, and since the eighties of the last century there has been a sequence of agricultural holdings acts and landlord and tenant acts which has finally established satisfactory conditions and equality between the parties. Ireland and Denmark also began during the middle of the nineteenth century to put tenancy upon new legal foundations and to organize a public control of its conditions. Sweden, Norway and Germany have followed in recent decades with similar protective legislation on tenancy, but so far a laissez faire attitude has prevailed in the United States. Only since the last depression has public interest been aroused, and this mainly in connection with the social unrest in the cotton states and with the fact that to some extent the taxpayer has to repair through relief the social consequences of the defects of tenancy. Since 1935 a whole sequence of bills has been introduced in both houses of Congress, all intended to check the increase of tenancy, lessen the economic instability of the tenant population and reduce the waste of national soil resources under farm tenancy. Most widely known among these bills are those by Senator Bankhead. The President's tenancy committee has already submitted its report, which makes certain suggestions for reform. Even before this governmental activity the tenants had begun to organize in the Southern Tenant Farmers Union and to struggle for better conditions, though with fierce opposition from the planters.

Unless all signs are deceptive the United States is about to start a slow reform of tenancy. As history shows in the countries mentioned above, tenancy protection, once started, soon becomes an essential part of agricultural policy and an equally important part of labor legislation. It is still too early to come to any conclusions

<sup>1</sup> Cf. "The Relations of Land Tenure to the Economic and Social Development of Agriculture" in *Proceedings of the Fourth International Conference of Agricultural Economists* (London 1937), with contributions by M. Sering, A. W. Ashby, J. E. Lattimer, L. Drescher, B. H. Hibbard, C. Ihrig, G. Dallas.

as to what is in preparation in Washington, but it seems timely to consider the potentialities of a sound long-run tenancy policy.

To begin with, the most important requirement for the necessary legal reform seems to be a clear-cut interpretation of tenancy before the law. The principle that the economic development of the farm to an increasing yield and productive value is the dominating mutual interest of both parties should be adopted as a guide, both in the administration of justice and in the treatment of tenancy under agricultural or labor policy. If this is combined with the protection of certain inalienable minimum rights and with the establishment of equality before the law, the main guiding principles of tenancy reform would be established. Written contracts should be made compulsory, and the questions which have to be settled by agreement in the contract should be kept at a minimum. Certain rights should be irrevocably bestowed upon the tenant, among them full domestic authority over the house and the garden, the right to use a minimum amount of land near the house as garden, the right to keep a minimum number of animals (for example, chickens, a goat and a pig). Another essential legal provision should guarantee payment of compensation for improvements which have a permanent value or which, though they increase the revenue only temporarily, are not exhausted. Any efforts to check soil erosion deserve special consideration in combination with compensatory provisions. Finally, the tenant should be protected against involuntary interruption of tenure wherever year-to-year contracts are used. In England the year-to-year lease is also very common, and there this protection has been established for a long time under the agricultural holdings acts. The tenant is entitled to compensation for "disturbance" if he has lived up to his duties and if the landlord terminates the lease arbitrarily. The very elaborate and refined English acts also protect the landlord against any abuse by the tenant. To make this scheme workable the agricultural committee for the area is obliged to issue certificates about the conditions found after complaints from either side, and in addition a compulsory system of arbitra-

tion by a single arbitrator has been established. Such a legal reform might be advisable under the conditions in the United States. Perhaps such rights as those concerning the use of garden land, the keeping of animals or the provision of a house fit to dwell in may be left to the future success of collective bargaining. But it would be much safer and more desirable to have these rights embedded in federal laws, at least in principle.

Unfortunately even the best laws do not mean much if the procedure of court action is too complicated, too costly or too time-absorbing. This is why most countries with progressive tenancy legislation have transferred the entire jurisdiction, including the difficult matter of supplying *prima facie* evidence, to special tenancy courts or to a system of combined arbitration and courts. Under the German republic, for example, all cases under the tenancy reform laws were delegated to a small number of tenancy courts composed of a panel of tenants and landlords with a professional judge presiding. These tenancy arbitration courts handled the cases with expert knowledge, a minimum of cost and remarkable speed. Such procedure would also establish the equality of both parties and would tend to diminish the tension between landlord and tenant. Nothing will more easily create the desirable atmosphere of peace between landlords and tenants than an impartial and well functioning special administration of justice. Aside from settling individual claims it could raise the standard of fairness and the contract morale of tenants and landlords, something that cannot be achieved otherwise.

It hardly needs elaborating that if legal reforms with respect to tenancy are adopted they should be enacted as federal laws, especially in view of the southern part of the country. From state legislation reasonable progress can scarcely be expected within even a decade, in spite of the likelihood that some states, such as Iowa, may pass reform laws rather soon. Probably the road toward a federal tenancy act is blocked by the Constitution, unless an amendment is passed, but I do not intend to enter here into a discussion of the constitutional implications. What has to be

stressed from the viewpoint of a long-run agrarian policy is that a sound legal interpretation of such a basic institution as tenancy is a problem touching the agricultural system of the whole country and even the political philosophy cherished by the nation. Thus a uniform federal law seems unavoidable, the more so since the country already pursues a uniform federal agricultural policy.

Aside from legal reforms another necessary development is an honest and well organized representation of tenants and of landlords. Such organizations would have important tasks aside from collective bargaining on certain essential contract conditions. Their duty would be to supply their members with legal information and legal assistance. It need hardly be mentioned that tenants, as the weaker group, need a good professional organization more than landlords, but it is natural that when tenants organize themselves for collective bargaining landlords will almost immediately organize too in self-defense. Since in the South the poverty of crop-  
ers is accompanied by the poverty of landlords it may be seriously doubted whether tenants should organize in analogy to labor unions, or whether it would not be better for them to choose the form of tenants' cooperative associations. This form would perhaps also make it possible to develop a special system of tenancy which in itself would promote reforms and secure the benefits of state aid granted to cooperative associations. Such a special system of tenancy would consist of collective contracts between a tenants' cooperative association as the lessee, and a single landlord or a group of landlords as lessor. This method, unknown in the United States, has been developed in southeastern Europe as a substitute for the corrupted system of subleasing through a middleman or manager. It has certain advantages for the lessor too, because the cooperative lessee has to guarantee, and sometimes deposit bond for, the liability of the members and in general is responsible for the fulfilment of the contract by each member. Such a system of home rule among groups of tenants may develop a strong sense of mutual responsibility, discipline and self-help.

Farm tenants' cooperative associations may improve economic

opportunities through large scale buying and selling. They can also help to build up new standards of progressive and honest tenancy. As soon as tenants begin to combine in cooperative associations of their own important aid by the federal government, which is available to farmers in general, may be offered to tenants in particular. The Farm Credit Administration, through its banks for cooperatives, could supply well founded and well managed tenants' cooperatives with cheap credit. Fair credit opportunities are a long step toward equality between landlord and tenant.

All the reforms that have been enumerated have one common denominator. They tend to repair the defects of the present American tenancy system and to enable it to function smoothly. They would improve conditions for landlords and tenants and would even remove many of the public objections to tenancy, such as the argument of soil depletion and soil erosion. But it is different if it comes to a policy of reducing the ratio of tenancy in the country or, as has repeatedly been called for in recent public discussions, to a policy of "annihilating tenancy." Many of the reform measures discussed may be used for curtailing the proportion of tenant-operated farms merely by applying them more forcefully. The legal reforms may be used to create a marginal preference for owner-operation. To some extent this has been a by-product of the English tenancy acts, which have so diminished the monopoly of the landlords that they have become the weaker group and have begun to sell out to tenants when the general economic situation has turned against them. Inheritance taxes with a progressive rate for farms not operated by the testator during a certain period before his death, and tax exemption for owner-operated homesteads, may also contribute to a slow trend away from tenancy. Such a trend may be promoted still further by offering tenants purchasing credit with a long term of amortization and low interest rates. A still further step would be the institution of government agencies which would purchase farms from landlords and sell them to former tenants, or lease them at a rent which would slowly amortize the purchase price.

To reduce the advantages of farm leases by legal reforms and by tax policies would be in line with a liberal competitive system, because it would merely create general objective conditions and would still maintain perfect freedom of action for all citizens. To use a credit policy for this goal would verge on an abandonment of the liberal principle. But land purchases and settlement of tenants as owners would mean active state intervention. The liberal methods operate relatively slowly, but also successfully, if they are well designed. State intervention promises more radical results in less time, but of course it also mobilizes many antagonistic forces and one step of intervention leads quickly to others. Land purchases alone are not enough; tenants who are to become owners must be selected carefully and given guidance and advice.

If the problem were only that of the defects of tenancy it would scarcely be necessary to launch a strong state intervention for their repair. But as soon as an attempt is made to improve the pitiful conditions of the cropper population of the South many evils have to be attacked beyond the institutional shortcomings of the labor contract. In the best article that has been written for a long time on the particular problem of southern sharecropping<sup>1</sup> Colonel Lawrence Westbrook declared: "*Men fail in the South not because they do not own land but because they are not competent farmers. They are incompetent because they are not physically well—a fact which presents immediate problems of hygiene and medical care. They are incompetent because they are ignorant, because they do not know how to farm or how to dispose of farm products—a fact which presents immediate problems of education, training, and organization. They are incompetent for other reasons, which I shall enumerate presently. To try to solve the problem without providing the necessary physical health, knowledge, and organization would not only accomplish nothing but might make a solution impossible.*" This brief statement reveals very clearly the whole vicious circle. Under such unfortunate deadlocked conditions, inherited from a long history, legal reforms

<sup>1</sup> "Farm Tenancy: A Program" in the *Nation* (January 9, 1937) pp. 39-41.

alone can correct only certain aspects of the situation. What could be done to reshape the rural community of the South, over several decades of concentrated nation-wide efforts, has been discussed in a former article in this magazine.<sup>1</sup> Nothing is more obvious than that a simple transfer of property titles to persons unprepared to be their own masters will not bring about the real reform that is needed; careful provisions must be made for a transitional stage.

What remains to be considered is the probable effect that legal reforms of tenancy will have in the farm lease market. How will the landlord try to adapt himself to changed legal and factual conditions, and how will the tenant respond? Probably landlords will use any opportunity to get along, without facing the consequences of changed relations between themselves and their tenants. They will either try to operate the farms themselves or will hire managers or cash laborers under their own management. Whether this procedure will amount to much depends on the degree of pressure brought about by the reform. Any such adjustment on the part of the landlords will curtail the supply in the farm lease market and will thereby tend to raise the level of rents, which means either an increased fixed amount of cash or an increased share for the landlord. The landlord's demand for additional capital may have a breaking effect. But, apart from the supply and demand factor, landlords will in any case try to obtain higher rents, as a compensation for lost advantages. Whether they will succeed or not will depend largely on market conditions. On the other hand, improved conditions for tenants may also, by increasing the demand for farm leases, stimulate the tendency toward rising rents.

These considerations are not meant as an objection against the urgent legal reforms. Even if such reactions should come in full force the total change would be beneficial. In its professional standards and attitudes tenancy would approximate ownership, and also the number of tenant-operated farms could be slowly reduced to those in which owner-operation is temporarily impossible.

<sup>1</sup> Brandt, K., "Potentialities of Agricultural Reform in the South" in *Social Research*, vol. 3 (November 1936) pp. 434-58.

# THE NEW RUSSIAN CONSTITUTION

BY ARNOLD BRECHT

*We are too ignorant either of what individual agency in its best form, or socialism in its best form, can accomplish, to be qualified to decide which of the two will be the ultimate form of human society.*

John Stuart Mill

## I

### *The Power of Documents*

THE extraordinary Eighth Congress of Soviets has completed its historic task of adopting the new Constitution of the Union of Soviet Socialist Republics," the presiding chairman announced on the fifth of December (new style) 1936, in closing the last Congress. Scarcely half a year had passed since the first publication, when the two thousand-odd deputies unanimously adopted the slightly amended draft.<sup>1</sup> The western world, so far, has hesitated to acknowledge the achievement as an historic juncture, but has focused its reaction somewhat doubtfully on the question of whether the Constitution was not made for show rather than as a serious step toward democratic forms.

<sup>1</sup> The official name is, of course, not Russian Constitution but Constitution of the Union of Soviet Socialist Republics (U.S.S.R.), as distinct from the Constitution of the Russian Socialist Federated Soviet Republic (R.S.F.S.R.), one of the constituent parts of the Union. Complete translation of the draft was published in the *New York Times*, June 26, 1936. The definitive text with the forty-three amendments will be quoted here from the official translation supplied by courtesy of the Soviet Consulate General in New York City, differing somewhat from the earlier version. Professor Samuel N. Harper has edited the amended text on the basis of a translation of the draft in the *Moscow News* and his own translation of the amendments, in Rappard, Sharp, Schneider, Pollock, Harper, *Source Book on European Governments* (New York 1937), along with other pertinent texts, such as the former constitutions of the Soviet Union and the Russian Republic, the program of the Communist Party and the Rules of the party (hereinafter cited as Harper, *Source Book*).

It is not difficult, indeed, to prove that the most autocratic regime, with all sorts of terror and cruelty, could be made permanent without violating the document, merely by adapting the procedure to its letter. In dealing with the text it seems futile to argue about whether or not this will be the case, as the practical execution will depend on political determinations and developments not embodied in that paper. Hence most critics have quickly waived analysis of the fundamental law and strayed to the political atmosphere. Nevertheless the part the document itself is going to play in determining the sense in which it will be executed must not be completely neglected.

First of all, any new organization of such enormous scope involves a shifting in personalities, in opportunities, implies new arrangements in positions of power or influence, new entrenchments, new ways of pushing forward, whether foreseen or unforeseen. This may be called the *new alignment of personalities and influences*.

Secondly, the adjustment of practices to the terms of the constitutional document involves a change in methods which may easily gain momentum. This may be called the *transformation of politics by the procedure of adjustment*.

Thirdly, the invocation of democratic ideas, done as it is in such solemn embodiment and with so many details, even if performed only for show, may develop a center of gravity of its own which may change the basis and complexion of political disputes. It makes a difference whether the constitution of a country and its government publicly deride and despise democratic ideas, or invoke and copy them. This may be called the *independent gravity of invoked ideas*.

The fact that the fathers of a constitution connect with its passage certain definite plans for the future, tricky or honest, does not always mean that such plans will prevail. France today looks very different from what in 1875, when the organic laws were adopted, the large monarchic majority of the Chamber thought she would look like. As is familiar to students of French history,

these laws left in the dark such basic questions as to whether the President of the republic has to choose the cabinet from the majority and keep personally aloof from politics, or whether he may attempt to work with his intimates, at least tentatively, and interfere personally with elections and public opinion. Many of those consenting to the organic laws meant to profit from these loopholes and tried to under the presidency of MacMahon. They failed.

Conversely, since the German Constitution of 1919 was obviously meant honestly as a democratic document, no one paid much attention to the potentialities, opened up by the wording of several clauses, for developing dictatorial forms. In particular little notice was given to the fact that the text provided for dissolution, and even for several successive dissolutions, of the popular chamber without stipulating that the Chancellor had to have a certain degree of parliamentary support before adding his countersignature to a decree of dissolution and to emergency ordinances during the electoral recess. Dictatorial forms could easily be developed from this flaw, and so they were. In both the French and German cases the intentions of the fathers did not prevail, while the construction of the system and the wording of the text played an important role in the historic development—reason enough for carefully analyzing constitutional documents apart from contemporary tendencies. *Habent sua fata constitutiones.*

These considerations alone would amply justify a careful analysis of the new Soviet Constitution, regardless of potential tricky ideas, and recommend an attempt to disclose, in the rope of Russia's fate, the strands that may now be woven in from the new document. Even if this were all in so far as Russia is concerned, it would not exhaust the theoretic interest of this new constitution.

Whether or not set up as a disguise, the Soviet Constitution broaches the problem of connecting democracy with socialism. In this respect it stands out as a unique experiment, at least on paper,

and should stimulate the lagging examination of the relation between democracy and collectivism. This *general theoretic aspect* of the Constitution approaches again one of the most practical political issues: the problem of whether and how the retrogression from a dictatorship to democratic forms may be possible after a new economic basis has been established or political conditions have changed. The theoretic interest of the new document is not restricted to these points, as will be brought out more fully below.

The following examination will treat the Constitution as a whole, as it stands now. Many elements have been taken over from the old Constitution, particularly those dealt with in the latter part, but the changes are so manifold that it is desirable in such a consideration as this to treat the new document as a unit in itself.

## II

*The Democratic Buttresses*

That the official edifice of the Soviet state has undergone essential changes cannot well be denied. This applies to legislation in particular. Formerly supreme legislative power was vested not in the All-Union Congress but, along with the supreme executive power, in the bicameral Central Executive Committee and its Presidium.<sup>1</sup> The Congress was an unwieldy body of several thousand deputies, scheduled to convene only once every two years in regular sessions and authorized to appoint one of the two chambers of the all-powerful Committee and to confirm the other chamber,<sup>2</sup> but not itself to legislate. The members were elected by open balloting, on the basis of different quotas for urban and rural districts (heavily

<sup>1</sup> Articles 16-18, 22, 26, 29 of the Union Constitution of 1924 (Harper, *Source Book*, pp. 88 ff.). Constitutional and administrative developments since 1923 are discussed, with many documents, in W. R. Batsell, *Soviet Rule in Russia* (New York 1929) pp. 321 ff.; see also W. Gurian, *Bolshevism, Theory and Practice* (New York 1932) pp. 80 ff.

<sup>2</sup> The other chamber was elected by the constituent republics, etc. (Article 15).

discriminating against the latter), and through indirect methods, which in the cities originated in factory soviets. The suffrage was not universal but was restricted on principle to the "toilers," or former toilers, and withheld expressly from several categories of bourgeois (i.e., from those who employed hired labor for the purpose of deriving a profit therefrom or who lived on unearned income, and from private traders), and also from monks and priests, from employees of the former police, etc.<sup>1</sup> All this has changed.

In future the "Supreme Council of the U.S.S.R.," which is to replace both the unicameral Congress and the bicameral Central Executive Committee, is to be the most perfect copy of democratic patterns. It will consist of two chambers, the one henceforth elected popularly in geographical districts, "on the basis of universal, equal and direct suffrage by secret ballot" (Article 134), the other indirectly through the legislatures of the constituent republics, etc., and these legislatures in turn will be popularly elected.

To the directly elected chamber a deputy will be returned for every 300,000 of the population, thus giving rural and urban districts even representation and the chamber some five hundred members, just the right standard membership of a normal lower house.<sup>2</sup> All legislative power will be reserved to the two chambers. To pass a law majorities of both of them must concur, as in any old-fashioned bicameral parliament; there is not even a temporary veto power provided for the heads of the executive branches. Amendments to the constitution are expressly admitted and will require two-thirds votes in both houses, which seems to be a moderate copy of western models.

Let us quote a few articles verbatim:<sup>3</sup>

<sup>1</sup> See Articles 68-75 of the Constitution of the R.S.F.S.R. of 1918/25 (Harper, *Source Book*, pp. 67 ff.).

<sup>2</sup> United States, House of Representatives, 435 members; Great Britain, Commons, 615; France, Chamber, 618; Germany, Reichstag, prewar 397, democratic postwar period 459 to 607 members. The lower chamber of the present Central Executive Committee in Moscow is somewhat smaller.

<sup>3</sup> In all quotations used within this essay italics are mine.

*Article 32:* The legislative power of the U.S.S.R. is exercised exclusively by the Supreme Council [*Verkhovny Soviet*] of the U.S.S.R.

*Article 33:* The Supreme Council of the U.S.S.R. consists of two chambers: the Council of the Union [*Soviet Soyuz*] and the Council of Nationalities [*Soviet Natsionalnosti*].<sup>1</sup>

*Article 39:* A law is considered approved if adopted by both chambers of the Supreme Council of the U.S.S.R. by simple majority vote in each.

*Article 146:* Amendment of the Constitution of the U.S.S.R. is effected only by the decision of the Supreme Council of the U.S.S.R. when adopted by a majority of not less than two-thirds of the votes in each of its chambers.

In addition, from the articles on elections:

*Article 135:* Elections of deputies are universal: all citizens of the U.S.S.R. who have reached the age of eighteen, irrespective of race or nationality, religion, standard of education, domicile, social origin, property status or past activities have the right to vote in elections of deputies and to be elected, with the exception of the insane and persons deprived of electoral rights by sentence of court.

*Article 136:* Elections of deputies are equal: every citizen has one vote; all citizens take part in elections on an equal basis.

*Article 139:* Elections of deputies are direct: . . .

*Article 140:* Voting at elections of deputies is secret.

Were it not for the article following next, which deals with the nomination of candidates, nothing more in keeping with democratic patterns seems indeed to exist. Yet before turning to the issue of nomination it is useful to examine more closely the legislative functions assigned to the two chambers. What is it that the buttresses are designed to support?

<sup>1</sup> Observe that the Russian word used for council is soviet in all cases. The Council of the Union is elected by election districts by the citizens of the U.S.S.R. The Council of Nationalities is elected by the citizens of the U.S.S.R. by union and autonomous republics, autonomous regions and national districts (*Okrug*), on the basis of 25 deputies from each union republic, 11 deputies from each autonomous republic, 5 deputies from each autonomous region and one deputy from each national district (Articles 34, 35). The number of members in the second chamber has been greatly increased over the original draft.

## III

*Due Process and Due Process Reversed*

Ever since the United States in its formation created the written constitution in its modern form as an instrument for the embodiment of basic principles, a bill of rights has been thought a proper chapter in such a document. Its insertion into the organic law was thenceforth to have a double meaning: first, glorifying these rights; second, binding all branches of government, including the legislature, by exempting the respective principles from the command of the simple majority. Only very gradually did it appear that binding the majority in any field may make the minority master in that field, and relatively seldom has it been asked how this can be reconciled with the exclusion of any kind of oligarchy. This neglected field of political thought has been strangely fertilized by the Russian Constitution. A few remarks may prevent us from passing rash and one-sided verdicts in this respect.

The subjects with regard to which constitutions may restrict majority rule are as numerous as our imagination may devise, embracing spheres as different as the geographic subdivisions of the country and states' rights, the establishment or disestablishment of religious denominations, basic principles of the economic system, principles of foreign policy, family life and education, freedom of the person, of speech and of the press, or even privileges of the civil service, as in the German Constitution of 1919. Obviously not all such restrictions are on the same plane. Some of them are the very consequence of the principle of majority rule, necessary to materialize the will of the majority, whereas others have rather the opposite meaning.

If the will of the majority is to rule, this implies logically that the liberty of the people to form and express their will is not allowed to be essentially curtailed; that voters and representatives must not be injured because of legitimate votes and speeches. These political liberties and equalities must then be regarded as an integral part of democracy; not even a two-thirds or a three-

fourths or a nine-tenths majority can be allowed to affect them if the country wants to continue as a genuine democracy.<sup>1</sup>

It is a different matter with all other constitutional limitations to legislative action. If democracy is understood as unqualified rule by majority decisions, and nothing else, it would be up to the majority to decide how far they will go with their regulations in any other field. Restraint placed on majority rule in this respect would make democracy *less* democratic, limited rather than absolute. This may be said to have been Rousseau's concept of democracy.

If on the contrary we take it for granted that every democracy should protect the minority not only in their free participation in expressing the popular will but also in other fields, then such restrictions, if expressed in the constitution, would merely make democracy perfect, stainless and absolute. They would make the country not less but rather *more* democratic. Based on Locke and Blackstone this has been the American point of view so far.

Now it is evident that the fields of such additional restrictions are also not all on the same plane. The demand for individual freedom of belief, of science, of art, for independence of judicial verdict, and other immaterial rights, has roots different from those nourishing the demand for freedom of contract and private property—different at least when freedom in these spheres is claimed in addition to the free formation of the popular will in political elections. The demand that property should be protected from majority decisions is based on two special reasons. One is the tenet that only unhampered property rights guarantee the highest development of individual efforts and of the wealth of nations. The other is the idea that the propertyless majority must always be suspected of being eager for encroachments and biased as to their justification. Not only are these two reasons distinct from the

<sup>1</sup> If the United States Congress, by two-thirds votes of the two houses and with the concurrence of three fourths of the states, should abolish or limit free voting, this might formally be a valid amendment to the Constitution, but at the same time it would correspondingly abolish or limit democracy, from this point of view.

arguments for the protection of immaterial rights, they are also different from each other.

Originally, as is well known to students of American government, the protection of private property from encroachments by the majority did not depend only on clauses in the Constitution but was supplied in an indirect way, at first by property qualifications for the suffrage in most of the states, and later, when this safeguard had dwindled in the eighteen-thirties, by a revival of the doctrines of higher law in favor of private property. Not until the fourteenth amendment came into being did the judges find an appropriate term in the due process clauses for protecting property against majority encroachments in both the federal Congress and the state legislatures.<sup>1</sup>

The collective trend of the postwar period has made it doubtful whether the exemption of private property from plain majority rule can be reconciled with democratic principles in case the majority acts for the common welfare and not for egoistic reasons.

<sup>1</sup> In Great Britain and France no constitutional clause protects private property from legislation, nor is the common law in England a statute-proof protection. An effective handicap, however, is provided by the composition of the second chambers in both countries. The House of Lords, a living due-process clause, preserved much of its checking power against socialist legislation even after the Parliament Act of 1911, as experience showed through the periods of the two Labour cabinets. In France indirect election, in addition to a discrimination against big cities in the composition of the electors, results in keeping the socialist wing in the Senate small. Also in the United States the fact that each state, regardless of its population, is equally represented in the Senate by two senators works as a check to mere numbers, in addition to the substantial constitutional restrictions.

The German democratic Constitution of 1919 expressly guaranteed freedom of contract and private property but left it to statutory law to determine the substance and the limits of these rights (Articles 152, 153). It was added that expropriation (*Enteignung*) could be made only "for the general weal" and further only with adequate compensation, unless a federal law ruled otherwise (Article 153, second paragraph). This might have been considered as authorization for socializing private property by federal law, even without any compensation. The courts, however, soon interpreted this clause in a restrictive sense; general measures for the benefit of the treasury, for instance, have been excluded from being regarded as for the general weal. Some limit to legislative encroachments in private property by simple majorities was therefore contained in the Constitution.

On the development in the United States see Edward S. Corwin, *The Twilight of the Supreme Court* (New Haven 1934).

To eliminate the bias and eagerness of the populace other devices may be invented than judicial review based on criteria which do not strike the real issue. Criticism cannot be silenced by reference to some preconceived concept of democracy. One may appeal, pro and con, to history, to economics, to psychology, to social needs, to justice, to the gospel, to vested interests or whatever else, but not to the concept of democracy which, after all, can be no more than a sphinx in this field.

No one would have expected the Soviet Constitution to include a due process clause for the protection of private property. The document reverses the matter, however, and, docile disciple, uses western democratic techniques to embody the socialist economic system and to protect it from simple majorities. This was the patent device for combining democracy and socialism. Socialists and individualists may even engage in a dispute (reminiscent of a famous phrase of Engels) as to whether the egg has been placed on the top or on the bottom. The negative reflection of western constitutional usages in the Russian document has some educational value at least, as it definitely shows what it means to embody economic principles in a constitution. In the future, in discussing the due process clause with respect to private property, no one can ignore the socialist antithesis. Whoever invokes democracy as his ideal is put to it to tell whether and why he recommends limiting majority rule in any material field beyond the protection of the freedom of voting. This will help make discussions more candid and clear. As long as we consider it in line with democracy to protect one economic system from majority decisions we can hardly reject the Russian Constitution a priori as undemocratic for protecting another. Instead we have to clarify whether the one or the other system is economically sound and humanly and socially adequate, whether the one or the other system will realize the highest ideals more broadly and more effectively, and why we do not think fit to leave the decision thereon to majorities. Majority rule is not absolute but limited in either case.

## IV

*The Socialist System Embodied*

The embodiment of the economic system in the Soviet Constitution has not been hidden in some Fourteenth Amendment or in the composition of the second chamber; it has been placed right at the top of the document. The few lines in which this has been done contain the most concentrated presentation of the Soviet socialist experiment in its present form. They have, therefore, great propagandist value in addition to their technical function of safeguarding the principles from change by majority legislation. It is advisable to render the text in full as it stands now:

*Article 4:* The socialist system of economy and the socialist ownership of the implements and means of production, firmly established as a result of the liquidation of the capitalist system of economy, the annulment of private property in the implements and means of production, and the abolition of exploitation of man by man, constitute the economic foundation of the U.S.S.R.

*Article 5:* Socialist property in the U.S.S.R. has either the form of state property (property of the whole people) or the form of cooperative and collective farm [*kolkhoz*] property (property of individual collective farms and property of cooperative associations).

*Article 6:* The land, its deposits, waters, forests, mills, factories, mines, railways, water and air transport, banks, means of communication, large state-organized agricultural enterprises (such as state farms [*sovkhоз*], machine and tractor stations and the like), as well as municipal enterprises and the principal dwelling fund in the cities and industrial localities, are state property, that is, the property of the whole people.

*Article 7:* Public enterprises in collective farms and cooperative organizations, with their livestock and implements, products raised or manufactured by the collective farms and cooperative organizations, as well as their public structures, constitute the public, socialist property of the collective farms and cooperative organizations.

Aside from the basic income from socialized collective farm economy, each collective farm household has for its own use a plot of land attached to the house and, as individual property, an auxiliary establishment on the plot, the house, productive livestock and poultry, and minor agricultural implements—in accordance with the statutes of the agricultural artel.

*Article 8:* The land occupied by collective farms is secured to them free of charge for perpetual use, that is, forever.

*Article 9:* Alongside the socialist system of economy, which is the dominant form of economy in the U.S.S.R., the law allows small private economy of individual peasants and handicraftsmen based on their personal labor and precluding the exploitation of the labor of others.

*Article 10:* The right of personal property of citizens in their income from work and in their savings, in their dwelling place and auxiliary household economy, domestic articles and utensils and objects of personal use and comfort, as well as the right of inheritance of personal property of citizens, is protected by law.

*Article 11:* The economic life of the U.S.S.R. is determined and directed by the state plan of national economy for the purposes of increasing the public wealth, of steadily raising the material and cultural level of the toilers, and of strengthening the independence of the U.S.S.R. and its defense capacity.

*Article 12:* In the U.S.S.R. work is an obligation and a matter of honor for every able-bodied citizen, according to the principle: "He who does not work shall not eat."

In the U.S.S.R. the principle of socialism is realized: "From each according to his ability, to each according to his work."

Under these articles there are three forms of socialization provided: state property, property of collective farms, and property of other cooperative associations.<sup>1</sup> The delimitations between these categories are definite in so far as all the land, all mills, factories, mines, banks, etc., are claimed as state property. This cannot be altered in future without amending the Constitution.

<sup>1</sup> On the development of the Soviet cooperative movement see Samuel N. Harper, *Civic Training in Soviet Russia* (Chicago 1928) pp. 166-88, and L. Lawton, *An Economic History of Soviet Russia* (London) vol. 2, pp. 460 ff. The present state of socialization is depicted in A. I. Stetsky, "The Liquidation of Classes in the U.S.S.R." in *Bolshevik* (June 1, 1936), translated in Harper, *Source Book*, p. 130.

Other things and goods, however, among them money, can be owned by the state or by social cooperatives of one of the two forms mentioned, or privately within certain limits to be discussed later.

State property being fixed to such a large extent the fullest margin of discretion has been left regarding the way in which the state property may be operated and utilized. As nothing is said about this in the Constitution utilization may be effected either by immediate state employment, as in any government-run public utility in western countries, or by leaving the exploitation to collective farms or other cooperative associations. This broad discretion makes it possible, without violating the Constitution, to have individual directors, engineers or workers earn wages at highly differential scales, or to give cooperative organizations privileges very near to private property (see Article 8) and high chances of profiteering.

The establishment of socialization in the Constitution, therefore, does not guarantee economic equality. The pursuit of equality is not even left an open question, since the last paragraph gives a clear direction to the contrary in describing the principle of socialism as "From each according to his ability, to each according to his work."

This *according-to-his-work* clause is likely to become the Russian equivalent of the due process clause of the United States. It definitely rejects the equal distribution and the according-to-his-need doctrine. Opponents of Marxism have sometimes thought to discover a contradiction at the bottom of Marxian philosophy, inasmuch as Marx believed in the dialectic movement of history from thesis to antithesis, whereas at the same time he believed in a final status of socialization; since such ultimate status does not leave any chance for a further antithesis critics have said there is a logical breach. This objection is not conclusive. Socialism in itself bears the germ of new theses and antitheses, foremost among them the dispute as to whether equality is to be established by the yardstick of individual merit or by that of indi-

vidual need. This dichotomy in socialist thought was foreshadowed from the very beginning of socialist thinking<sup>1</sup> and was as sure to arise as was in the liberal world the antagonism between freedom of individual and freedom of collective action. The Soviet Constitution takes definite sides. Its formula being "to each according to his work," inequality of social reward according to merit is definitely established. This principle is further stressed by Article 118: "Citizens of the U.S.S.R. have the right to work, that is, the right to guaranteed employment and payment for their work *in accordance with its quantity and quality.*"

There is no constitutional limit to differentiations in pay. Salaries may vary over as wide a scale as they do in any capitalist country, one employee getting two, ten, fifty or more times what the other gets.<sup>2</sup> This, however, is not left to the control of the free market but, at least within the operation of state property, to administrative practice, subject only to eventual legislative directions. It is difficult in adequate words to describe the amount of discretion necessarily included in this scheme.

<sup>1</sup> See for example the passage in John Stuart Mill's *Principles of Political Economy*, in which he divides the assailants of the principle of individual property "into two classes: those whose scheme implies absolute equality in the distribution of the physical means of life and enjoyment, and those who admit inequality, but grounded on some principle, or supposed principle, of justice or general expediency, and not like so many of the existing social inequalities, dependent on accident alone." He applies to the first category the name of communism, to the second the name of socialism "in a larger sense" (Book II, ch. 1, sect. 2, preceding the sentence placed at the top of this article). Under these definitions, Russia has shifted to that "socialism in a larger sense." On the earlier period and the gradual development of the profit motive as incentive see Arthur Feiler, *The Experiment of Bolshevism* (London 1930) pp. 103 ff., 125, 229.

<sup>2</sup> It has been reported that the present wages in Russia do indeed differ to such an extent: auxiliary worker, non-Stakhanovist, 170 rubles a month or less; the same, Stakhanovist, 400 rubles; miner, non-Stakhanovist, 400-500 rubles; the same, Stakhanovist, 1600 rubles; a particularly successful head engineer of a pit, 8600 rubles a month (Leon Sedov in *The New International*, February 1936; Max Eastman in *Harpers Magazine*, February 1937). It is not the purpose of this article to examine these data, which may be disputed or may change, but simply to state that such differentiations from more than one to fifty are allowed under the Constitution.

Nor do the stipulations regarding individual property involve an indirect limit to differentiations. Three or four categories of individual property are recognized. The first is connected with collective farm economy. The *income* from collective farms, in so far as it is distributed to the farmer, is to be his private property along with the most intimate part of his agricultural existence: the house, productive livestock, poultry, minor agricultural implements and an auxiliary establishment on the plot of land attached to the household (Article 7, par. 2). The second category of private property recognized is the "small" private economy of individual peasants and handicraftsmen based on their personal labor with the preclusion of any exploitation by others (Article 9). Whereas these two categories are restricted to special professions, the third is quite general and much less limited in scope, leaving to private property every citizen's *income* from work and his *savings*, also his dwelling place and auxiliary household economy, domestic articles and utensils and objects of personal use and comfort (Article 10). As a fourth category may be counted what is *inherited* as private property (*ibid.*).

Money, in particular, can be earned by individuals, accumulated, invested in savings banks and government bonds for high interest, and passed over to heirs—in unequal amounts constitutionally not limited. It can be spent, too. The only rigid constitutional limits to spending are those which prevent certain goods, such as land and factories and other wholesale means of production, from being purchased as private property. All those goods at least that are enumerated in the third category may be bought privately, embracing the broad sphere of "objects of personal use and comfort." This clause makes it possible to include everything that has not been excluded expressly, from large houses and resort cottages to rich clothing and precious stones, luxurious wine and food, expenditures for travel and theatres, hunting and fishing, sailing and motoring. Nor is it absolutely denied that money may be spent for hiring the labor of others, except for the economy of individual peasants and handicraftsmen. Re-

striction follows again from the fact that the more important means of production cannot be owned individually, but domestic services and services for enhancing the other comforts of life, and employment in private trade, are not completely prohibited. The general clause in Article 4 on the abolition of exploitation of others offers some leeway in this respect.

These allowances for individual property may be narrowly interpreted or stretched to the limits of the terms. Yet abolition of private property altogether, or of the according-to-work principle of reward, by way of administration or simple legislation, is constitutionally disallowed as decidedly as is the restoration of private property in land and in the main means of production.

After all, a rather specific system of means-of-production socialism and comfort-and-savings individualism has been entrenched in the Constitution. Whether this system will lead to higher levels of economic standards and more social justice than the western economic systems obviously depends on various factors, of which one is the superiority or inferiority of the economic system as such,<sup>1</sup> another the administration's ability and impartial candor, or inability and corruption, in its execution. The importance of the second, the personal factor, is enhanced by the broad discretion inherent in the nature of a system which by administrative decisions classifies services and distributes rewards "according to quality and quantity" of work.

v

*What Else Was Necessary?*

Since socialization of the means of production is safeguarded to such an extent from being overthrown by plain majorities it may be questioned whether one is justified in assuming, as a foregone conclusion, that the new set-up of the government will be only a smoke screen of no serious significance. After legislation and ad-

<sup>1</sup> Among the more recent essays see A. Feiler, "The Soviet Union and the Business Cycle" in *Social Research*, vol. 3 (August 1936) pp. 282-303.

ministration have been expressly restricted to the execution of the embodied system why not leave the details to two houses, popularly elected, and to their appointees?

Four reasons suggest themselves as to why the makers of the Constitution may not have trusted in democratic forms even under these safeguards: first, majorities if freely chosen might be large enough to change the economic basis by constitutional amendment; second, freely elected groups might attain extra-constitutional power to overthrow the system without gaining two-thirds majorities; third, while adhering to the system they might replace its present beneficiaries by others (replace elites by other elites); fourth, they might annoy the present and all potential future beneficiaries by insisting on an able and uncorrupted administration for the achievement of socialist ideals.

The potentiality mentioned last would not be an argument with idealistic adherents. Viewed with less idealism, however, all four must look perilous, and even the idealistic communist would easily shrink from the first and second danger. Hence it is most likely that ideal and egoistic interests have readily joined forces in setting up safeguards against the true rule of freely elected majorities.

This has been thoroughly done. The principal safeguards are: first, maintenance of the Communist Party as the only political organization; and second, the entrusting of all nominations in electoral campaigns to the party and to a few controlled organizations:

*Article 126: In conformity with the interests of the toilers and in order to develop the organizational self-initiative and political activity of the masses of the people, citizens of the U.S.S.R. are ensured the right to unite in public organizations—trade unions, cooperative associations, youth organizations, sport and defense organizations, cultural, technical and scientific societies; and the most active and politically conscious citizens from among the working class and other strata of the toilers unite in the Communist Party of the U.S.S.R., which is the vanguard of the toilers in their struggle to strengthen and develop the socialist system*

and which represents the leading nucleus of all organizations of the toilers, both social and state.

Article 141, paragraph 2: The right to nominate candidates is granted to public organizations and societies of the toilers: Communist Party organizations, trade unions, cooperatives, youth organizations and cultural societies.

Under these provisions the generously granted universality of the suffrage is offset by the fact that apart from the Communist Party no other political organization will be allowed to exist, let alone to nominate candidates. If one of the other groups mentioned should put forward a candidate in any way suggestive of political opposition that group would be in danger of dissolution. *Not only does Article 126 fail to guarantee the existence of other political groups, it guarantees their destruction.*

The secrecy of the ballot, even if truly observed, would give oppositional voters no more power than that of trying spontaneous demonstrations by casting negative or void ballots, or ballots for the candidates of the other groups admitted in article 141 if such candidates should be forthcoming. Beyond this there would be no political alternative in the elections, and after all, secrecy of balloting is a relative thing.

The dual system of power is thus to continue, consisting of the official machinery of the state along with the machinery of the single political party, the latter supposed to prompt all decisions of the official shield bearers.

These two provisions have startled the more careful western observers,<sup>1</sup> and the fact that both of them are hidden in the latter part of the document after the resounding democratic passages has made them appear the more sinister. Nor can there be doubt that these clauses have been understood to mean what they say. Otherwise the Communist Party would not have permitted the adoption of the Constitution without any visible fight.

As has been said in the introduction, it would be a mistake to push this point so far as to ignore the changes or merely mock

<sup>1</sup> See, for instance, Arthur Feiler in the *Nation* (January 9, 1937) p. 55.

at them. The new features may gradually gain significance in various ways. The new alignment of personalities, the transformation of politics by the procedure of adjustment, and the independent gravity of the invoked democratic ideas, may influence the further development in spite of the party privileges.<sup>1</sup> These, however, are but potentialities. For the time being there is no democracy realized in Soviet Russia. Democracy means freedom in forming political programs and freedom in the nomination of candidates. Democracy without alternatives in elections is a contradiction in terms.

Nor is this all.

## VI

### *Habeas Corpus*

Although arbitrary arrests by the Stuart kings had added much fuel to the passions in the decisive struggle of Parliament for superiority, it was several decades until, in 1679, the *Habeas Corpus* Act essentially guaranteed that every arrested person is, on

<sup>1</sup> Certain reforms of the party are under way. In March 1937 the Central Committee of the party decided to introduce secret elections, broader right to criticism, the right to remove candidates from the official lists, and a few other modifications. But this has not changed the fact that the party is built upon the principle of centralization and absolute discipline. The Rules of the party as of February 10, 1934 (Harper, *Source Book*, pp. 34 ff.), declare that it is the duty of a party member to observe strict party discipline and to carry out in practice the decisions of the party organs (2a); that by periodic decisions of the Central Committee of the party purgings are to be held for the systematic cleansing of the party of "overt and covert violators of the iron discipline of the party and of the state," etc. (9); that the guiding principle of the organizational structure of the party is "democratic centralism" which among other things is to signify "strict party discipline and subordination of the minority to the majority; the absolutely binding character of the decisions of the higher organs upon the lower organs and upon all party members" (18); that a nation-wide discussion of issues is permitted only with the approval of the Central Committee or if there is not a sufficiently solid majority in the Central Committee (57). "The maintenance of party unity, the relentless struggle against the slightest attempt at a factional fight or a split and the strictest party and Soviet discipline are the foremost duties of all party members and of all party organizations" (58). On the party see W. H. Chamberlin, *Soviet Russia, A Living Record and A History* (Boston 1930) pp. 58 ff.

demand, to be brought before the judge within a fixed brief time and must not be kept in prison without the warrant of the judge; the arresting officer, unless he acts accordingly, is himself guilty of violating the law. This right has been considered ever since to be the foundation stone of freedom.

The new Soviet Constitution is evidently aware of the point. It seems to take an important step in this direction:

*Article 127:* The citizens of the U.S.S.R. are guaranteed the inviolability of person. No person may be placed under arrest except by decision of court or with the sanction of a State Attorney.

This clause, indeed, changes the previous situation to a certain degree. Militia or local party organizations are no longer allowed to proceed to arrests without judicial review; the newspapers have been filled with recent actions of the central government against the continuation of such arrests. Also, judicial review is said to be impartial. Judges, rules Article 112, "are independent and subject only to the law." They are elected for five years by the All-Union Supreme Council or the respective bodies of the constituent republics, etc., or popularly elected for three years, as in the case of district courts (People's Courts; Articles 102 to 109). This might appear as an appropriate machinery for guaranteeing the inviolability of the person except for two stumbling blocks: the nomination of candidates in the elections for judgeships is subject to the nominating privilege of the Communist Party; and the State Attorney's arresting power is independent of the courts. There can be no writ of *habeas corpus* against him. Who is the State Attorney?

*Article 113:* Highest supervision over the strict observance of the laws by all People's Commissariats and institutions under them, as well as by officials and by citizens of the U.S.S.R. is exercised by the State Attorney of the U.S.S.R.<sup>1</sup>

<sup>1</sup> Former translations spoke of the Prosecutor; the term is so translated also in Harper, *Source Book*, p. 127. On the Russian criminal procedure see Judah Zelitsch, *Soviet Administration of Criminal Law* (Philadelphia 1931) pp. 158 ff. Observe that the State Attorneys are *national* officers.

*Article 114:* The State Attorney of the U.S.S.R. is appointed by the Supreme Council of the U.S.S.R. for a term of seven years.

*Articles 115, 116:* [These articles declare that all other State Attorneys in the country are appointed either by the State Attorney of the U.S.S.R. or with his approval.]

*Article 117:* The State Attorneys' offices perform their functions independently of any local organs whatsoever and are subordinate solely to the State Attorney of the U.S.S.R.

The discretion of this all-powerful State Attorney, at the top of a strongly centralized machinery, will decide, then, who is to be arrested outside of judicial action. Whether such extra-judicial arrests will number scores or thousands is left to political guess. There is small chance, however, that by free abstention this discretionary power will fall into disuse. It has never occurred in history that an administrator allowed the liberation of arrested persons by the courts in all cases if he had the power to keep them arrested. As long as anyone may be secretly arrested and kept in prison all will feel this potentiality hovering over them. This will make them adaptable but neither frank nor free. There will be no inviolability of the person in Soviet Russia. This again implies that there will be no freedom of expression in elections.

This physical unsafety devalues the list of Citizens' Basic Rights which is contained in Articles 118 to 125, and which includes the right to work; to rest; to material security in old age, in the event of sickness and loss of capacity to work; to education; and the freedom of conscience. As to the latter there is another flaw. "Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens," reads Article 124, second clause, in mere repetition of Article 4 of the R.S.F.S.R. Constitution of 1918/25. This grants freedom of propaganda against religion but not in favor of it.

In conclusion we read with mixed feelings the ringing Article 125 which begins:

In conformity with the interests of the toilers, and in order to strengthen the socialist system, the citizens of the U.S.S.R. are

guaranteed by law: (a) Freedom of speech; (b) Freedom of the press; (c) Freedom of assembly and meetings; (d) Freedom of street processions and demonstrations.

There is, first, some doubt as to whether these freedoms are to be guaranteed in all cases or, according to the opening clause, only in so far as they strengthen the socialist system. Yet even should such restriction not be intended, these freedoms are but empty shadows of democracy without the inviolability of the person and a broader freedom of association. In addition they are subject to any restriction by law which may render punishable utterances of any kind.<sup>1</sup>

## VII

### *"Appeal to the People"*

Since the two chambers of the Supreme Council, each elected for a fixed term of four years, have equal rights, legislative initiative belonging to either in equal degree, the issue of deadlocks came up and it found an original solution. If the disagreement cannot be settled either by a conciliation committee or by reconsideration the chambers will be dissolved by the Presidium and a new election held (Article 47).

Should parliamentary deliberations ever attain serious meaning it would be interesting to see this novel device work. While adopting the basic principle of the American and French system that no chamber can legislate without the concurrence of the other, it tries to avoid or break deadlocks by threatening an appeal to the people in case of any enduring divergence. This is an original departure also from the path taken in the Parliament Act of 1911 in Great Britain and in the German Constitution of 1919, both of which grant the lower house preponderance, either in case of a threefold repetition of its resolution, spread over a

<sup>1</sup> On liberty in the Soviet state prior to 1937 see A. Feiler, *Experiment . . .*, pp. 193 ff.; W. H. Chamberlin, *op. cit.*, pp. 387 ff. Articles 5, 6 of the R.S.F.S.R. Constitution of 1918/25 had already promised "real freedom of expression of opinion" and the right "freely to assemble."

period of at least two years, money bills enjoying further facilitation (Great Britain), or in case of a single repetition with two-thirds majority (Germany). It is not inconceivable that the Russian device would prove to be workable in parliamentary countries.

With the whip cracked by the Communist Party over the elections the novelty appears but a further safeguard against parliamentary rebellion. Should one chamber rebel the other would be able to check it by its contradiction and automatically switch in new elections, in which the prerogative of the party in the nomination of candidates would have full swing in restoring obedience. The appeal to the people is to be an appeal to the party.

## VIII

### *The Executive*

The office of head of the state has been given in commission, as before. It will be performed by the "Presidium of the Supreme Council of the U.S.S.R.," a body of thirty-seven persons, all elected at a joint sitting of both chambers and including the Presidium's chairman, its eleven vice-chairmen<sup>1</sup> and its secretary. It is not among the functions of the Presidium to preside over the meetings of the Supreme Council, as the name seems to indicate, for the two chambers have each its own chairman and two vice-chairmen, who are in charge of the procedure of these bodies. Nor has the Presidium retained the sweeping powers given the former Central Executive Committee or its Presidium.<sup>2</sup> Most of the powers now enumerated in Article 49 are rather in keeping with the restricted function of a normal head of the state in parliamentary countries, such as the supreme command of the armed

<sup>1</sup> The number of vice-chairmen proposed in the original draft had been only four.

<sup>2</sup> Under the Constitution of 1924 the Central Executive Committee issued codes of law, decrees, decisions and orders (Article 17), and during the intervals of its sessions its Presidium was "the highest legislative, executive and administrative authority of the U.S.S.R." (Article 29).

forces,<sup>1</sup> ratifying international treaties, accepting the credentials of foreign diplomats, awarding decorations and honorary titles, exercising the right of pardon.

The "highest executive and administrative organ of state power," which "issues decisions and orders on the basis and in pursuance of the laws in operation and supervises their execution," is to be the Council of People's Commissars, which like any cabinet in parliamentary countries will be "*responsible to the Supreme Council of the U.S.S.R. and accountable to it.*" In short, not the Presidium but the People's Commissars are treated as the "government" in the European sense of the term, and twice they are expressly styled in this way.<sup>2</sup>

The appearance of parliamentary government is strengthened by the fact that the People's Commissars are to be appointed (as before) not by the Presidium but by the two chambers in a joint sitting, and that any of the commissars "to whom any question by a member of the Supreme Council of the U.S.S.R. is addressed is obliged to give a verbal or written reply in the respective chamber within a period of not more than three days." This inconvenient control might easily have been omitted if it had been desired to avoid it.

The Presidium, within its own jurisdiction, will be allowed to act without the countersignature of the cabinet (as before). In parliamentary democracies such countersignature secures the indirect accountability of the head of the state to the legislature, but the Soviet Constitution makes the Presidium "in all its activities" directly accountable to the Supreme Council (Article 48). The expression here being "accountable" only, not "accountable and responsible" as in the case of the People's Commissars, the Presidium has to account for its activities without being subject to recall by the chambers, remaining in office until after new

<sup>1</sup> Also, between sessions, the declaration of war in the event of armed attack or in fulfilment of treaty obligations. The latter stipulation has been added by amendment.

<sup>2</sup> Articles 56, 71. In Europe the term "government" is used for the executive branch alone, not including the legislative and judicial branches.

elections when a new Presidium is formed, whereas People's Commissars can be removed from office by the Supreme Council at any time. The fact that the Presidium in its functions is not dependent on the consent of the People's Commissars makes the head of the state more important than in parliamentary countries and practically divides the executive work between the two bodies.

In addition, in the intervals between sessions of the Supreme Council, the People's Commissars are responsible and accountable to the Presidium (Article 65). This includes the right to relieve of their positions and appoint People's Commissars, subject to subsequent confirmation by the Supreme Council. This right, however, can be exercised only "at the instance of the Chairman of the Council of People's Commissars" (Article 49 f), a procedure reminiscent of that in parliamentary countries, where the initiative is left to the prime minister. Hence the temporal responsibility of the cabinet to the Presidium may not affect the relation fundamentally.

Much more relevant is the predominance given the Presidium in the interpretation of the law and the issuance of decrees. The Presidium, reads Article 49 b, "interprets existing laws and issues decrees"; and under letter e it is added that the Presidium "annuls such decisions and orders of the Council of People's Commissars of the U.S.S.R. and the Council of People's Commissars of the republics as do not conform to law." This most radical solution of the problem of judicial review leaves the ultimate decision in all questions of interpretation of the law to the Presidium, which thus has powers analogous to those of the United States Supreme Court.<sup>1</sup> There is no constitutional limit even to making interpretations retroactive.

This unique power has been supplemented by the addition of the vague words "and issues decrees." The original draft did not go so far as that; it declared that the Presidium "interprets laws

<sup>1</sup> Articles 32 and 43 of the Constitution of 1924 still provided for the decision of either the Central Executive Committee or the Supreme Court in certain disputes with the constituent republics, etc.

in operation by issuing appropriate instructions." The new wording, brought about by amendment, seems to admit decrees (instructions) not only concerning pure interpretation of the law but also concerning the details of its execution.<sup>1</sup> This affects the relation between the People's Commissars and the Presidium in its very essence. It is necessary to remember only the clauses on private property, or the according-to-his-work clause, in order to realize what it means that decrees of the Presidium are not restricted to the interpretation of the Constitution but may fill in the broad space left to executive discretion.

Thus the term "government" can scarcely be used for the Commissars alone instead of for the Presidium or for both of them. Rather it must be said that, again, legislative, judicial and executive powers have been vested in the Presidium and that the executive power has been divided between Presidium and Commissars. This structure, although decidedly deviating from western patterns, is nevertheless not altogether undemocratic in itself, because the Presidium is elected by the legislature and accountable to it, and the right of the legislature is not questioned to correct by subsequent legislation any untoward interpretations. Again it is the party privileges back of the general will rather than the lack of a separation of powers which makes the structure undemocratic.

## IX

*Soviet Brand of Federalism and Administration*

The Union is said to be a federal state formed by eleven union republics.<sup>2</sup> One of these eleven constituent republics, the Russian, is in turn called a federated republic, and it consists of seventeen "autonomous republics" and six "autonomous regions" (*Oblast*) side by side with nineteen ordinary regions (among

<sup>1</sup> The new text is translated in Harper, *Source Book*: "Interprets laws in force of the U.S.S.R., issues instructions."

<sup>2</sup> Russian, Ukrainian, White Russian, Azerbaijan, Georgian, Armenian, Turkmenian, Uzbek, Tadjic, Kazakh, Kirghiz.

them Moscow) and five provinces or territories (*Krai*). Also most of the other constituent republics are subdivided into autonomous republics and autonomous regions.<sup>1</sup> This gives the structure a highly federal aspect which is further enhanced by such declarations as that each union republic is reserved the right "freely to secede from the U.S.S.R." and has its own constitution in full conformity with the Constitution of the U.S.S.R., the "sovereignty" of the individual republics being restricted only within the limits set forth within a single article of the new Constitution and their state power exercised "independently" by them outside of these limits.

But when we turn to this single article (14) the federal structure collapses. Among the twenty-three powers of the Union enumerated therein are not only the fields on which national jurisdiction is familiar to us from other federal countries,<sup>2</sup> and the supreme control of constitutional behavior of the individual republics,<sup>3</sup> but in addition: the direction and control of the economy of the entire country<sup>4</sup> and of the monetary system;<sup>5</sup> the approbation of all taxes and revenues in the budgets of the indi-

<sup>1</sup> The autonomous republics and autonomous regions are represented in the Union Council of Nationalities (Article 35). This distinguishes them from the ordinary regions and provinces.

<sup>2</sup> International relations and treaties; matters of war and peace; admission of new republics into the Union, and the formation of new provinces, regions, etc.; alterations of boundaries; defense and direction of the armed forces; national budget; citizenship in the Union, rights of foreigners. Legislation on the judicial system and judicial procedure, criminal and civil codes, may also be counted in this category, in view of the Swiss and the former German system; also the passing of all-union amnesty acts (letters *a-c, e-g, u, w*).

<sup>3</sup> "Supervision of the observance of the Constitution of the U.S.S.R. and ensurance of the conformity of the Constitutions of the Union Republics with the Constitution of the U.S.S.R." (letter *d*).

<sup>4</sup> Foreign trade on the basis of the state monopoly; determining the plans of national economy of the U.S.S.R.; administration of the banks, industrial and agricultural establishments and enterprises and trading enterprises of all-union importance; administration of transport and communications; state insurance; organization of a unified system of national economic accounting (letters *h, j, l, m, o, s*).

<sup>5</sup> Direction of the monetary and credit system; contracting and granting loans (letters *n, p*). The individual republics cannot make loans of their own accord.

vidual republics and local units;<sup>1</sup> and "the protection of state security,"<sup>2</sup> which includes fighting domestic troubles by federal agencies, as through the system of national State Attorneys. This list is enlarged by the power to establish the "principles" of labor legislation and the "basic principles" in several other important fields.<sup>3</sup>

Add to this that conflicts between the Union and the constituent republics are to be decided not by the courts but by the Union<sup>4</sup> and that the decisions and orders of the Council of People's Commissars "are binding throughout the entire territory of the U.S.S.R."<sup>5</sup> It is not possible, then, to speak of independent state rights. The generous award of the right to secede, which seems to challenge the timid federal structure of the United States, is illusory: how should it be exercised in a union in which any political organization other than the Communist Party is forbidden to come into existence, to form programs of secession and to nominate candidates? The powers of the republics are not enlarged by the fact that each has its own Supreme Council (parliament with two chambers), Presidium and Council of People's Commissars. As there are, however, other democracies in the world which live as unitary states, the fundamental issue of federalism *vs.* unitarism may be passed over here; it may be noted but briefly that the majority principle must have some territorial limits, otherwise in a democratic world state the Chinese and Indians, because of their numerical strength, would be allowed to vote down all others.

More interesting is the Soviet structure from the administrative point of view. The administrative role of the individual

<sup>1</sup> Letter *k*.

<sup>2</sup> Letter *i*.

<sup>3</sup> Use of land, exploitation of deposits, forests and waters; education; public health (letters *q*, *r*, *t*).

<sup>4</sup> Article 20: "In the event of a discrepancy between a law of a Union Republic and the law of the Union, the all-Union law prevails." As mentioned before, the Presidium of the Supreme Council of the U.S.S.R. is supreme in the interpretation of any all-union law.

<sup>5</sup> Article 67.

republics is more important by far than the formidable list of federal powers in Article 14 makes it appear. The Union does not exercise the whole catalogue of its powers through a national administrative machinery. Only part of the Union Commissariats appoint their own employees all over the country.<sup>1</sup> The other Commissariats have no direct field machinery under them but use the machinery of the constituent republics and other local bodies. In this category of indirect administration there belong subjects of such broad substantial and administrative importance as internal affairs, finance (collection of taxes, etc.), agriculture, state farms, domestic trade, light industry, food and timber industry, public health and justice. Other important branches, such as education, are left entirely to the administration of the individual republics. Thus the administrative machinery is highly decentralized in so far as the establishment of agencies, appointment of employees, and current management are concerned, although strongly centralized in final supervision and final decisions.

This dovetailing of central and local organization finds its logical expression in the fact that the Councils of People's Commissars of the individual republics include representatives of the All-Union Commissars, and that some of the Commissars of the individual republics have a dual responsibility—to their own Council and to the corresponding Commissars of the Union.

Of the many subdivisions of the union republics, one species, the "autonomous republics," have again their individual constitutions and their own Supreme Councils. Other subdivisions—provinces, regions, districts, *rayons*, cities and rural localities, and also autonomous regions—have no particular constitutions. Their jurisdictions are allotted them by the individual republics. Their organs of state power are not bicameral Supreme Councils but unicameral "Soviets of Toilers' Deputies," elected for three

<sup>1</sup> These "All-Union Commissariats" deal with defense, foreign affairs, foreign trade, railways, communications, water transport, heavy industry, defense industry. The list is not very different from the list of federal departments in the United States and other federal countries. The indirectly administering Commissariats are called Union-Republic Commissariats.

years by the toilers in the respective districts.<sup>1</sup> The term "Soviet of Toilers" seems to suggest a continuation of the original factory soviets. Article 134, however, in establishing universal, equal and direct suffrage by secret ballot, expressly includes the deputies here in question. Hence there will no longer be any factory councils in Russia serving as electorates either for central or local government.

The local deputies form executive committees which function as executive organs and are *accountable* both to the deputies and to the executive organs of the superior units (Article 101).

Seen from the bottom the view is most illuminating. There are agencies of various sorts in local places: first, those appointed directly by the national government, subordinate to it in direct hierarchical order—this category, known in all countries, will include the State Attorneys; second, those appointed by the governments of the individual republics and intermediate units, accountable to them, but at the same time through them to the national government in national matters, in deviation from the American pattern; third, those elected by the deputies of the local subdivisions, accountable to them, but at the same time through them to the executive organs of the superior units in super-local matters, again in departure from western patterns. Instructions of any superior executive concerning matters in his jurisdiction will of course always have priority over the criticism of the local soviet.

Dual accountability in matters of not purely local character has therefore been established for the locally elected authorities throughout the country.<sup>2</sup> This system is theoretically remarkable,

<sup>1</sup> Articles 94, 95. Under the original draft elections were to be for only two years. On local administration prior to the new constitution see W. R. Batsell, *op. cit.*, pp. 663 ff.

<sup>2</sup> In line with Article 54 of the R.S.F.S.R. Constitution of 1918/25, where the principle has been stated even more clearly: "They shall be *responsible* to the Congresses of Soviets which elected them and shall be *subordinate* to the respective superior Executive Committees, their Presidiums, the All-Russian Central Executive Committee of Soviets, its Presidium, and to the Council of People's Commissars of the R.S.F.S.R."

as it represents the most consistent alternative to federalism in a country which wishes to preserve administrative decentralization without abandoning strong national direction. There is hardly a complete parallel to this experiment in any country. The most similar in Europe might be found in the former democratic Austrian system. In the smaller proportions of a state with some six million inhabitants Austria had established what her experts called the double track (*Zweigleisigkeit*) of administration, the federal government using the elected executives of the constituent units (*Länder*) as subordinates in national branches of administration. This offered the great advantage of providing the federal government with local agencies without compelling it to erect agencies of its own, thus avoiding the costs and defects of duplication of local agencies in the same fields. But there were two weak points. The chief executives of the *Länder* (the *Landeshauptmänner*) were not ordinary subordinates who could be disciplined and removed in the normal way; they had to carry out orders, but if they did not the matter was to be transferred to the Supreme Court for decision; the decision was supposed to be respected but was not even enforceable at law. This was the consequence of federal courtesy. Furthermore, the local agencies of the *Länder* were more interested in observing the local than the national interests. Hence neither part was fully satisfied, as I often had occasion to notice in discussions of the system with Austrian experts, and in the more important branches of the national administration the federal government preferred appointing local agencies of its own.

In democratic Prussia the dovetailing between central and local government was brought about with more care for discipline, partly at the cost of local independence. In every rural *Kreis* the popularly chosen diet elected its executive organ, the *Landrat*, who at the same time was to be the executive organ of the Prussian central government. Thus far the structure was parallel to that of the U.S.S.R. But the central government had reserved to itself the right to accept or reject the person proposed and to

appoint a provisional executive until an agreement was reached. Moreover, the *Landrat*, once agreed upon, was subject to the full disciplinary power of the central government and was removable at any time by that government, but not by the diet of his district.<sup>1</sup>

In the United States and Great Britain no form of legal subordination of the elected local to the national executives exists. Conditional grants-in-aid are used in both countries to bridge over this gap; although securing strong substantial influence they do not place the local machinery under national orders.<sup>2</sup> In France, conversely, the prefects are strictly subordinate to the national government, but not locally elected.<sup>3</sup>

It would be interesting to see the Russian system at work. But the influence of the Communist Party behind the scenes may be regarded as a secret corrective, practically enabling the national government to correct local elections at pleasure, and thus, once again, if it be permitted to vary a popular phrase, the proof of the democratic pudding will not be the eating thereof.

## X

### *Conclusion*

Not until one has examined the whole document do the three opening articles become understandable:

<sup>1</sup> In the cities the position of the mayors was less dependent on central government because they were locally selected for fixed periods; but confirmation was necessary, and sometimes refused, as for example for communists and national socialists in 1930-32; disciplinary action was also centralized. The mayors served the central government as subordinates in delegated matters (*Auftragsangelegenheiten*), such as those concerning the police.

<sup>2</sup> On the use of state employees to aid in the federal administration, and conversely, see the illuminating article by Jane P. Clark, "Joint Activity Between Federal and State Officials" in *Political Science Quarterly*, vol. 51 (June 1936) pp. 230-69.

<sup>3</sup> Space does not permit discussion of other countries, such as Canada and Switzerland, and the relations between central and local government within the separate states in the United States, where a kind of "double track" has been established in some cases.

*Article 1:* The Union of Soviet Socialist Republics is a socialist state of workers and peasants.

*Article 2:* The Soviets of Toilers' Deputies, which developed and grew strong as a result of the overthrow of the power of the landlords and capitalists and the winning of the dictatorship of the proletariat, constitute the political foundation of the U.S.S.R.

*Article 3: All power in the U.S.S.R. belongs to the toilers of town and country as represented by the Soviets of Toilers' Deputies.*

While at first sight this introduction appears to uphold the system of factory soviets and the exclusion of all non-toilers from public life, this is obviously not borne out by the subsequent provisions. In the official central and local government the factory soviets are gone. "Soviet of Toilers' Deputies" will henceforth be the name common to all elected bodies enumerated in the Constitution, from the Supreme Council of the Union down to the village soviet of toilers' deputies (Article 134); all of them, as we have seen, are to be popularly elected in geographic districts on the basis of the universal, equal and direct suffrage of all citizens.

There is a loophole left in the term "citizen." Since legislation on citizenship is reserved to the Supreme Council of the Union there is the possibility that statutes might restrict citizenship to those who actually are or have been "toilers" in the former sense of the term. But it is hardly to be expected that the extension of the suffrage granted in the Constitution will immediately be repudiated in this way.

The true safeguard of the present beneficiaries of power is the privilege given the Communist Party to nominate candidates in all elections, and also the strong centralization of the prosecution of non-communistic political associations and of all movements which are against the state, including the equipment of the prosecutor with the right to detain any person without judicial review.

Detailed analysis has exhibited how strangely yet artfully the democratic buttresses and the undemocratic foundations of real

power have been set side by side, both designed to prop the mixed economic system embodied in the first chapter. The new Constitution is no crude draft which might be belittled because of its inexperienced language; it is rather an expert work of refined constitutional formulation. This fact will but add to the indirect significance the document may gain in future, as has been indicated at the outset of this article. No one is entitled to say that the voluminous external democratic dress of the Constitution makes present-day Soviet Russia democratic in any respect.

Nevertheless the historic function of this Constitution may be to afford the stepping-stone for libertarian tendencies. How sinister or progressive are the intentions of the present incumbents of power will not be decisive; the antagonistic ideologies of the Constitution and the Party Rules may supply the vocabularies in future fights. *Habent sua fata constitutiones.*

# ECONOMICS TODAY

BY GERHARD COLM

## I

No one will deny that the problems of economics have undergone a steady transformation during the course of history. Economics in our day deals with other subjects than did economics in the rural society of the Middle Ages. The economic problems of the eighteenth century society of farmers and artisans were different from those of our age of corporations, credit and rapid technical progress. There are certain general questions which are related to every economy, yet general answers to these questions are like empty frames which are still to be filled with a picture. Specific answers can be given only for specific economic systems. And since these specific economic systems are in a constant state of development the economist looks upon an ever changing scene. It is essential to stop from time to time to ponder the changes that have taken place. Only in this way can the economist's consideration of present-day problems escape distortion through the application of ideas developed by and for another historical situation.

"By and for" is said advisedly. The economist is not merely an observer, detached from the stream of economic events. The great economic systems, such as mercantilism, liberalism, Marxism, or even that most recent development of economics, interventionism, are all systems of economic theory, yet they are not the abstract creation of scholars floating on air above the struggle waged in the field of actual social life. These systems developed out of historical situations. Mercantilism may be called the economics of absolutism; liberalism the economics of the aspiring bourgeoisie; Marxism the economics of the proletariat in process of emancipation. And the systems in turn had an influence on historical development. The problems arise from the stream of

historical events, pass through the realm of science and in turn constitute one of the forces shaping historical development for good or evil. It is a situation similar to one that is familiar in the physical sciences: the object of study is modified by the fact that it is under observation and even by the type of observation.

It may be objected that this is confusing economic theory and economic policy. Certainly mercantilism, liberalism and Marxism are systems of economic and social policy. But each involves also a certain special theoretical approach to reality. I am concerned with them here only in so far as they represent different theoretical approaches.

Before I attempt a general analysis of the historical situation of economics today I want to illustrate the problem by a brief survey of the transformation of economic problems during the course of capitalism.

## II

The idea of an *ordre naturel* was the leading principle in the establishment of economics as a modern science. What was the historical background responsible for the presentation of economic problems in this manner?

At the time of the Reformation, when the drive toward a central European authority vanished and when the decentralized feudal order fell apart, territorial monarchs had been the only powers that prevented domestic anarchy and created opportunities for those excluded from making a living in the cities, where guilds monopolized and restricted opportunities. These monarchs had been the only powers that could exploit the newly discovered world for domestic enrichment and that could prevent other powers from appropriating the wealth of these lands for themselves. At that time it would have been meaningless even to raise the question as to whether an economic system could function automatically without governmental guidance or regulation.

The monarchs, however, through subsidies and tariffs, through the importation of skilled labor and through state monopolies,

fostered business to such an extent that gradually the protected merchants and industrialists became stronger than their protectors. This protection was then felt to be a handicap by the groups who wanted to make use of the newly created opportunities but did not belong to the privileged class. Under these conditions the question of whether an economic system could work without state privileges and state regulation was not merely an academic problem. It was *the* problem of the time. The answer was provided by the discovery of the laws of the market.

The classical school certainly did not pretend to give a true picture of the economic reality of the time. Its laws have a hypothetical character, as do all laws in economics. One of the questions raised was: how would the economy work *if* there were free competition and no state interference? Other assumptions as to the state of technology and as to sociological facts were taken from current reality as these writers observed it; but this one crucial assumption as to the non-interference of the state was taken from an imagined picture of a better society.

Economists of our day will admit that most of the classical doctrines are the logical outcome of their assumptions. They will admit also that classical writers asked an essential question. The question was vital at that time and the answer played a great role in shaping the whole period. There is no justification, however, for interpreting the classical theory as a general theory, as a theory, so to speak, of eternal validity.<sup>1</sup> Many of the classical assumptions do not hold for other periods. They were specific answers to specific questions in a specific historical period.

Classical economists themselves, searching for laws of a *laissez faire* mechanism, encountered certain difficulties. Even at that time Ricardo had to deal with the effects of technical progress on employment; John Stuart Mill encountered the problem of un-earned increments as a factor in the marketing economy spoiling the otherwise perfect justice of the system. But these annoying

<sup>1</sup> J. M. Clark probably had in mind such undue extension of an idea when he said, "Error is . . . truth out of place" (*Preface to Social Economics*, p. 22).

facts were regarded not as the real root of the economic troubles but as merely incidental.

Marx, and also his forerunners and successors, focused their attention on these disturbances. They disregarded the imagined order and concentrated on the existing disorder as the crucial problem. Classical economists had sought the laws controlling the economic processes. Marx sought the laws disturbing the economic balance. Is it that Marx applied a different logic? Are there really two different sciences of economics, one bourgeois and the other proletarian? As far as the economic realm is concerned, Marx merely added one assumption. Ricardo had mentioned the effects of technical progress in a chapter added only in a later edition of his main work. Marx chose as the basic assumption for his economic reasoning the superiority of large scale production. At the time Marx wrote, large scale production was limited to a very small field, but he based his reasoning on the assumption that this tendency would prevail in the whole field of industry and agriculture. Thus he argued that more and more business men would be eliminated by the competition of bigger business men, so that an ever larger number of people would be proletarianized, until finally the expropriators are expropriated. Marx therefore believed that the system of free competition would lead not to the greatest happiness of the greatest number, but only to the self-destruction of this order. Once again a system of tremendous consequence! And once again the assumptions are made with deep understanding for the essentials of an historical situation.

### III

It would be a mistake to infer from these examples that economic theory is nothing more than a weapon for certain political actions and that truth is only the expedient for such a course. It must not be forgotten that it is not a question of a single set of alternatives, a choice between science as the slave of politics and science for its own sake. These opposite interpretations seem

to be equally wrong. But what criteria are there for passing judgment on the value of an economic theory?

To my mind there are two. The first is verifiable, incontestable *truth*, agreement between the theory and the subject matter dictated by the theoretical problem. A statement that is true is true always, everywhere, and for everyone. There is no such thing as various truths for various classes, periods or races. Truth is absolute.

The second criterion may be called the *validity*<sup>1</sup> of a theory. Validity depends on the manner in which the question is put and consequently on the selection of the assumptions. A theory may be true but at the same time, because it is not built on a "live hypothesis,"<sup>2</sup> contribute nothing toward solving the problem of a historical situation. How can we pass judgment on the validity of a theory? Two opinions may be mentioned, which I believe should be rejected as too simple. According to one the selection of both the problem and the assumptions is entirely subjective and arbitrary. If this position is taken no theory can be said to have validity, from the point of view of scientific discussion. According to the other opinion validity means no more than a conformance of the assumptions with the observable facts: a theory is valid if it leads directly to the grasping of existing facts. Is factual conformance the criterion of validity? The reality of economics is dynamic. The assumption of free competition was a "live hypothesis" at the time of Adam Smith, and the assumption of technical progress was a "live hypothesis" at the time of Marx,

<sup>1</sup> I cannot deal here with the logical implications of these two criteria. If we are concerned not only with the hypothetical subject matter posed by science but with the whole of a situation, then a broader concept of truth is involved, including also the criterion of validity. Wertheimer (*Social Research*, vol. 1, May 1934, p. 135) distinguishes in this respect between truth, symbolized by a small *t*, and truth, symbolized by a capital *T*. In this latter sense truth would certainly include the criterion of validity.

<sup>2</sup> William James, *The Will to Believe*. The interpretation of science which I am giving here differs from pragmatism in so far as it does not allow the absolutism of truth to be questioned by emphasis on the historical determination of the validity of our knowledge.

but this does not mean that these assumptions were already materialized to the extent supposed in the theories based on them. The selection of these assumptions was the outcome of a specific interpretation of historical development.

This interpretation does not arise from a mere extrapolation of the trends of the past. In social development the trend is not a "natural" or necessary development. It may be shaped by human action, and one of the elements in its formation is the theoretical conception of economic systems. The theorist influences, mostly to a minor degree but sometimes as an important factor, the historical development that he is interpreting. Hence the social responsibility of economic theory. Hence the political element, the element of responsible decision that is involved in purely academic work. But such "decision" is not arbitrary. It arises from an understanding of what is on the "agenda." The most important duty of science is that it should fully realize the task it has to fulfil in a specific historical situation.

And yet science can never decide upon its task with entire conclusiveness because of the irrational and unpredictable elements involved in all historical development and in the evaluation of historical development. A certain element of risk always remains in any such decision. The scientist approaching a problem can never be certain where he will end, whether he will find that he is exploring a desert or fertile land, whether his findings will prove a modest contribution toward shaping the course of historical events or whether they will be forgotten on a dusty shelf. But the scientist rooted in his today or his tomorrow will have the greatest chance of productive achievement—even though he can never be certain about it.

This is perhaps an ecstatic interpretation of the role of economics and the responsibility of the scientist. There are in science, as in life generally, genuine impulses, crises, decisive turning points, as well as the routine of daily life. The daily routine in science is the process by which each solution brings in its train a fresh problem to be solved. This process contains mutual checks

which guarantee by free discussion and constant verification a gradual approximation to the truth. And yet this progress is not indefinite. It continues until a crisis leads to a new way of posing the problem, thereby revising traditional assumptions. This does not mean, of course, that the new approach may not make use of the traditional theories as tools. Marx used the classical doctrines even though he followed another direction of scientific research. Every such new approach tends to shape the pattern of a new scientific tradition, which in turn may be followed by generations of rank and file workers in the scientific realm. But whether they are aware of it or not, their approach is intrinsically shaped by the situation and evaluations governing at the time the basic outline of their systems was conceived. It remains a question whether economic science today has once more reached a stage in which progress can no longer be achieved by mere refinements within the traditional patterns—be they of orthodox liberal or of Marxist theory—a stage in which the basic assumptions themselves must be examined anew.

## IV

What can be said about the economic problems of our times? In their fundamental reasoning both liberalism and Marxism abstracted themselves from the immediate action of the state. They relied upon the working of economic automatism—to which the orthodox school looked for the ultimate realization of a just and efficient competitive order, and from which Marxism anticipated the ultimate self-destruction of the capitalistic system. In our present economic and social situation one thing seems certain: we can wait neither for a realization of the technical and social conditions under which the orthodox theories may materialize, nor for the end of capitalistic self-destruction. The economic order has reached today a point where action will brook no delay. The question of the type of action determines the scientist's assumptions and imposes upon him a share of responsibility for the historical events.

If one interpret the present stage of society as entirely disintegrated, if one believe that the patterns of social existence in family, workshop and political organization are being dissolved, then the only valid social theory is the one that blazes a trail to a new social organization. One such answer is bolshevism. There is much a communist may learn from classical theories. Yet in his thinking classical theories will play quite a different role from that they play in the thinking of a liberal. For the communist the test of validity of every economic theory lies in what it can contribute to the problems of comprehensive planning. His sets of sociological and psychological assumptions will be entirely different from the assumptions with which orthodox theory used to operate.

Different again are the economics of fascism. Fascism tries to accomplish reintegration not by a real reorganization of society, but by subordinating all special interests—which, however, are not really removed thereby—to an alleged national goal. Fascist governments create a condition of international tension and then consider the national emergency arising therefrom as the co-ordinating principle for all social and economic activity. The economics of fascism is predominantly the economics of a fortification economy. Fascism too can make use of many of the elements of classical economics, as well as of the economics of bolshevism, but it will set these elements in a different framework of sociological and political assumptions.

Bolshevism and fascism, however, are not the only alternatives. Even though a country's traditional patterns of life may be shaken they are not necessarily destroyed, and it is possible that such a country is not ready for a new social formation. In all capitalistic countries the problem of economic reconstruction exists, but in some countries there may still be a chance to pursue a "middle course" of reconstruction within the traditional social pattern. For those who do not believe in the possibility of any remodeling of the capitalistic system any discussion of state interventionism, of state regulation in an economic system organized under the prin-

ciples of private property and particularly private management, appears as idle talk. On the other hand, to those who still see a chance to save the humanitarian achievements of the liberal age such questions are urgent above all others. They will demand that fundamental problems be posed in such a manner that theory may contribute to this vital task of adaptation. They believe that the more energetically theory is focused upon this task, the greater the chance for a country to succeed in a "middle course."

Science—especially ethics, political science, sociology and economics—can contribute essential arguments as to whether the problems with which economic theory is concerned in a specific situation should be those that are implicit in communism, in fascism or in interventionism. And yet science can never reach a definite answer to this question. There will always remain, as was pointed out above, the element of risk and personal responsible decision.

If we assume that there is still a chance of pursuing the "middle course" what will be the path of economic science? In this remodeling of an existing system, as in the establishment of an entirely new social order, economics must be constructive. In neither case is it possible to rely on "natural forces" for a perfect market economy. A man-made economy and no longer the *ordre naturel* must be the starting point. Difficulties must be recognized as a challenge to action and not dismissed as incidental frictions or natural catastrophes. But the problems dealt with in constructive economics depend on the nature of the constructive goal. For a "middle course" goal the most urgent task is a realistic analysis of the actual functioning of economic life. Traditional theories are essential tools for grasping this reality, but nothing more than tools. They teach us to understand those tendencies making for order and those making for disorder in the market, but we must know also to what extent order and disorder exist. Governmental measures, often considered as a factor working so to speak from without the economic sphere proper, must be integrated into the realm of economic reasoning. This necessarily realistic attitude

does not mean that hypothetical reasoning should be abandoned. On the contrary, constructive thinking necessarily involves an element of imagination. The economist must visualize and analyze specific possibilities of governmental measures which are to be integrated as hypotheses into his economic reasoning. Such a question as how a marketing economy could work under governmental investment control can never be answered by mere description. But hypotheses must be constantly checked for their realistic adequacy, and observation must center on the actual working of economic life and not on some abstract construct built out of mere logic.

This observation of the actual working of economic life necessarily entails a consideration of certain of its political and social aspects. Adolph Löwe<sup>1</sup> has shown very convincingly that there were certain sociological suppositions implicit even in classical economic doctrine. In the classical scheme, however, these suppositions were static and invariable, figuring as given data. Marxism was the first great system that integrated a dynamic sociological theory into economic theory. This sociological theory was ingenious but it was simplified and abstract. The sociological suppositions required of such a system as we are discussing must be realistically adequate to the immediate situation and can never be accepted as final and incapable of change.

The same holds true for psychological suppositions. An example may illustrate what I have in mind. A theory of the business cycle is bound to include consideration of certain psychological reactions, usually introduced as the element of "confidence." Although experience shows that confidence is shaken in certain phases of the cycle, this fact cannot be accepted as an invariable datum. Some authors, for instance, argue that in a period of shaken confidence governmental spending cannot increase purchasing power because, in view of the lack of confidence, the deflationary tendencies will offset the additions to the purchasing power. This argument overlooks the fact that a determined governmental

<sup>1</sup> *Economics and Sociology* (London 1935).

policy will restore the confidence of at least some part of the population and thereby create the proper psychological condition for a greater economic effect of governmental policy. Psychological, like sociological and political, suppositions are inescapable in economic theory, but they must be tested step by step and it must be constantly borne in mind that their validity depends on the situation from which they emerge.

In short, present-day economics must be constructive, and therefore both realistic and imaginative, integrating political, sociological and psychological elements into the theoretical framework.

While it is necessary for the whole theoretical structure to aim at the goal of a constructive economic policy, this element of choice refers only to the selection of the problem and the hypotheses it gives rise to. Once the problem is stated and the hypotheses are formulated, then the answers should be entirely untrammeled by the passions from which the questions may have arisen. The answer must be true or untrue. No argument counts except the appeal to reason and fact. The scholar in the field of the social and economic sciences is consciously or unconsciously connected with the struggle of real life through the necessity in which he is placed of deciding how to pose the problem and how to select the assumptions.

#### *Note on Max Weber's Methodology<sup>1</sup>*

To my mind the suggestions contained in the foregoing essay differ in three points from Max Weber's methodology.

First, Max Weber contends that the scholar posing the problem and selecting the assumptions establishes a relationship between the subject matter of his study and the realm of values. But Weber

<sup>1</sup> Cf. Albert Salomon, "Max Weber's Methodology" in *Social Research*, vol. 1 (May 1934) pp. 147-68. In this note I refer more particularly to Max Weber's *Objektivität sozialwissenschaftlicher und sozialpolitischer Erkenntnis* (1904) and *Wissenschaft als Beruf* (1919), both reprinted in Max Weber, *Gesammelte Aufsätze zur Wissenschaftslehre* (Tübingen 1922).

does not believe that selection necessarily implies evaluation. For instance, the scholar dealing with the competitive order of capitalism must believe, of course, that competition is one essential feature in our social existence and therefore worthy of scientific analysis. But the scholar does not necessarily have to believe, because of this selection, that free competition ought to be enforced, or vice versa. The "ideal type," as Max Weber calls the fundamental tool of research in all historical studies, is in his opinion a working hypothesis and not a positive or negative norm. I admit this to be true only where partial theory is concerned. We constantly make use of working hypotheses, so-called "experiments of the mind." How would it be if . . . ? And these "ifs" are certainly meant to be considered not as norms, but as tools of logic. All such partial theories, however, are ultimately related to an all-embracing framework of assumptions within which every partial theory has its proper place. In any scientific system as an entity the element of evaluation is essential, because of the possible effect of scholastic work on reality. Hence the social responsibility of the scholar in posing the problem and the inevitable normative element in social sciences. I am therefore not prepared to admit that exclusion of all evaluation (*Wertfreiheit*) is a possible postulate for the social sciences as a whole.

Second, Max Weber fought so passionately against evaluations in the realm of science because he believed that evaluations belonged to a realm of absolute irrationality and mere subjective decision. I have tried to emphasize that rational reasoning has its proper place not only in "pure science" but also in interpreting the task to be met in a historical situation, although I have admitted that there would always remain a certain insoluble ultimate which requires a personal decision.

Third, Max Weber holds that the value of scientific work rests entirely upon the belief in an indefinite scientific progress. Real scientific work, he says, is motivated only by "science for its own sake." But I consider the vital function of science in the course of history itself to be one of the forces stimulating scholastic efforts.

## A NOTE OF DISSENT ON "ECONOMICS TODAY"

BY MAX ASCOLI

**I**F THE real subject of Dr. Colm's article were merely "economics today" I would have no quarrel with it. But here, if I am not mistaken, we are dealing with social science today, or rather with social science and history. I do not know whether Dr. Colm intended to go so far as I think he has, and whether he is willing to read with me in the broader pattern of the social sciences what I consider the unavoidable result of his conception of economics. Possibly not. Possibly I am misunderstanding him. This makes me feel even more urgently the need to attempt a rephrasing of his theory and to propose it to him as an enlargement of his own conception, even though with some unavoidable deformations.

As I understand Dr. Colm's position it can be summarized in these terms. There is a doctrine which asserts that all economic theories are subjective and arbitrary, while another doctrine maintains that they are designed to mirror the facts. Both, according to Dr. Colm are at least partially wrong. He contends that economic theories may attain reality and validity if constantly adjusted to historical contingencies. Obviously we are here dealing with a far wider range of problems than the strictly economic; indeed, we are at the core of the mediaeval polemic between realism and nominalism.

To couch the question in mediaeval terms, science, according to Dr. Colm, is neither pure intelligence, adequate to its subject matter, nor pure will, free to shape its patterns according to its own unpredictable bent. Science is intelligence subjected to the same conditions which determine the evolution of society. Society has science always ready at call, and science must try to do its best in order to clarify and at the same time satisfy the objective needs of society. The whole system of received and answered calls

is named by Dr. Colm, with Hegelian terminology, history. During the last two hundred years history has created a considerable number of economic theories, each one adequate to specific phases of society. Thus we have had the mercantilists, the physiocrats, the classical economists, the Marxists. In more recent times we have had bolshevists and fascists, represented and served by economic theories adequate to their own political goals. Dr. Colm maintains that there is room for still another scientific school, represented by the "middle of the road" economists.

The middle of the road economist is characterized by a complete awareness of the fact that there are several systems of economic intelligence adequate to various economic needs. In choosing among these systems, in improving them according to the needs of our day, and in being efficient in his work of choice and of improvement, the middle of the road economist can find the justification for his own existence. He is, if I may use this metaphor, like a mobilized switchboard operator, serving at the front line the cause of the middle of the road political army. He has to interpret the sometimes faint or confused calls and to connect them with an adequate theory. Sometimes in an emergency he has to patch a wire or repair a plug. He is exposed to personal danger and to technical mistakes. Efficiency for the sake of public service is his highest dream.

The conception that I have thus rephrased could scarcely be presented with more earnestness and thoroughness than it receives in Dr. Colm's article. Yet this plurality of scientific doctrines makes me uneasy. I know, of course, that the conflict of doctrines is the very life of science. But I know also—this I have learned from a great Italian economist, Pantaleoni, and it can be applied to any branch of science—that there are only two schools in each science: those who know it and those who do not. Too much stress, I believe, is usually laid on the differences among scientific schools; parochial sectarianism, combined with a tendency to give quick labels to scientists, has contributed toward an improper emphasis upon the element of conflict in scientific schools, at the expense

of the element of unity. I do not know where liberalism ends and socialism starts in John Stuart Mill; and the more I study Aristotle the more I realize how much of a Platonist he is. What could Marx have done without Ricardo? The unity and continuity of science have been distorted by too many unnecessary dramatizations. The reason lies perhaps in our habit of developing the history of ideas in courses of lectures and in chapters of books, each lecture and each chapter with its own climax and finale.

There is only one goal for social sciences and only one risk. The goal is to suggest explanations which are universal in character and fact-finding in function. The risk is that of being mistaken, of allowing the universality to become mysticism or dogmatism and the fact-finding function to turn into a mechanical, haphazard collection from the leftover of events. Little has been discovered in the social sciences since the Greeks; since the nature of man remains the same only a limited number both of theoretical explanations and of political combinations is possible. This is a most fortunate state of things, guaranteeing the scientific consistency of the social sciences while the natural sciences are still groping in an attempt to define and analyze the nature of their own subject matter. But the economists are frequently unmindful of the fact that they cultivate a still rather young branch of the social sciences, and in their search for truth they are inclined to assume as their goals values borrowed from technology, like efficiency, or from philanthropy, like usefulness, or from philosophy, like the idea of history, calling history their desire to be in tune with the leading trends of their day. For these economists (sociologists are frequently in the same situation) the object of their science, which is society, becomes so important that it overshadows the real function of science; they are inclined to conceive themselves as zealous social workers busily engaged in recognizing the leading trends of the day and in making the best of them.

This does not mean, needless to say, that the social sciences have to float on air. On the contrary, they can never be enough aware of the relations existing between their work and the forces

and passions of their times. Such psychological or psychoanalytical self-scrutinies are extremely useful to science; they are instrumental in regaining the level of clear consciousness, the necessary perspective and distance from the contemporary passing scene. Every system of social science is a different attempt to get facts from an always elusive subject matter; but initiative to decide what is a fact and what is its meaning remains always with science. No political movement, be it fascism or bolshevism or middle-of-the-road, can boast of producing a certain set of facts so compelling that an adequate science has to be created to fit them. And no personal subjective preference for the solution of bolshevism or of fascism or of the middle of the road can be considered as the starting point for independent scientific construction. In other words, either science has absolute reality and self-sufficiency, or there is no science.

No tribunal has jurisdiction over science except the tribunal of science itself. This can never be repeated enough, especially in reference to the social sciences. Certainly no tribunal judging according to universal standards of value, and possibly represented by a church or by a party; and no tribunal pronouncing in the name of so-called compelling facts or of history. Galileo was in a more fortunate situation than the modern scientist; he had to face but one inquisition. We, on the contrary, are between the inquisitions of many dogmas which would have us variously excommunicated, and the inquisition of history, which threatens to deny our existence if we are pronounced out of tune with our own era. Giordano Bruno was merely burned, and in being burned he went fully to that cosmic immortality where in his thinking he had always lived. He did not have to face the accusation that he was non-existent or anti-historical because unfit to adjust himself to the leading trends of his times.

It is here that my dissent from Dr. Colm is more radical. The social sciences need not look to validity, in the sense of adequacy to contemporary contingencies, for the corroborative proof of their findings. Indeed, the very idea of validity seems to me dis-

turbing and unnecessary. Science cannot keep in abeyance as untimely some of its alleged truths. Nor have the social sciences to recognize the legitimacy of personal choices as foundations of scientific constructions. On the contrary, science must have the authority to declare invalid, according to its own criteria, social facts and political events. I believe that science (and especially the social sciences) can be saved in our day only if it is so strongly established in itself that it is able to denounce as wrong certain political regimes. This does not mean that science has to deny the existence of bolshevism or of fascism, or that it has to complain hysterically about them. On the contrary, the social sciences must assimilate these new political experiences by subjecting them to rational analysis. Validity, like success, is essentially unpredictable. Truth is enough as a goal for science.

From what precedes it does not follow that a scientist is not allowed to have a belief in bolshevism or fascism or in any other "ism." But what he produces must have value according to the standards of his scientific craft and not according to the standards of his dogmatic political brethren. Even less does the conclusion follow that the democratic political position is necessarily right, true, etc. There is an alliance now between democracy and science which allows to scientists a watchful belief in democracy; but between the scientific middle of the road, which is wisdom gained through a definition of extremes, and the political attitude of the same name there is a relation which is little more than a mere homonymy. If science aligns itself with certain political institutions interpreted as the fated productions of history, it is bound to be destroyed when the contingencies and expediencies which make up these political institutions are outlived. There are certain political tendencies unfriendly to science or inclined to curb it, others which leave to science a comparatively free range of action. Yet it is well to remember an old proverb: may God guard me from my friends; I can take care of my enemies.

Social sciences, in their constant quest for perspective and facts, mold tools which may be used in the interest of many political

causes, right, left and center. Both the production of tools and the multiplicity of their use are necessary and beneficial phenomena. The production has to go on endlessly under every condition and against every obstacle. This implies that the social sciences (including economics) must be theoretical, and that the social scientist must be aware of the inner unity in the line of development of each special science. Once a social scientist has succeeded in producing well-balanced theoretical tools he can always rely on the expectation that conflicting political interests will get hold of them and use them somehow in a constructive, realistic and imaginative mood. Moreover, between the social sciences and practical life there are many intermediary stages through which the scientific products are adjusted to the needs of the final consumers. The social scientist can rely on that too, and go on producing in his own way and style. A too vigilant eye on historical reality, detached from theoretical production, causes a dangerous strabismus which makes the vision hazy.

When the social sciences are theoretically productive and politically plurivalent, or in other words, when through constant inner checks they try to reduce to the minimum the margin of error, they have fulfilled all possible obligations toward society. I should not like, therefore, to put much emphasis on the role that science plays in historical decisions. Who knows the various shares of merits and of responsibilities in historical decisions? Once while an ox was painfully drawing a plow a fly was resting on its horn. The fly was proud and boastful: look at what I am doing and what a furrow I am making, how many clods of earth I am turning over and moving. The fly was right, in a way, being at the very top of the horn, at the spearhead of the whole moving block of ox and plow and clods of earth. "Mosca cocchiera," we say in Italy: driving fly.

# THE VOLUME OF MONEY AND THE BUSINESS CYCLE

BY WALTHER LEDERER

THE argument is frequently produced that because of the very nature of the financial structure of modern capitalism a deficiency of purchasing power will appear which is said to be the cause of economic disturbances. Naturally these theories appear primarily in times of depression, when on the one side unused capacities, human as well as mechanical, and on the other side unsatisfied wants, resulting from lack of purchasing power, lend strong support to such ideas. It is not the intention of this paper to expound the numerous theories of this kind and to try to separate the theoretically valid part of their content from misconceptions and exaggerations. Rather, a special case of such discrepancy will be demonstrated which, even though it has not been altogether overlooked in the literature, has not yet found a sufficient interpretation and evaluation.

It is obvious that a lack of purchasing power would not exist in an economic system in which the supply and the velocity of money (e. g. gold) were fixed and the volume of production did not change. In such a system changes in demand might occur, which would require the transfer of means of production and labor to other fields, but after such adjustments were made a new equilibrium would be established. No lack of purchasing power would be caused by the necessity to replace the equipment or by diversion of a part of the gross incomes to profits.

The present investigation must therefore be based on a growing economic system with a growing production and an elastic supply of money. The problem will be whether the growth of the supply of money automatically keeps pace with the increase of production, that is, whether there is an interconnection between the supply of money and the value of production. For an examination

of this problem the study falls into two parts: in the first I shall attempt a schematic picture of the circulation of money and credit in a static economic structure; in the second I shall try to analyze the process of growth and its consequences.

## I

*Monetary Circulation Under Static Conditions*

In our present economic system production usually does not wait for the orders of the ultimate consumer; manufacturers and merchants, because of their competition, have to anticipate demand and have to put forth a product in a state which permits its immediate use. This necessitates production before the sales take place, and therefore also the financing of current expenses, such as wages and raw materials, by liquid capital of the enterprise or by credits.

The current theories of monetary circulation start usually with the assumption that the funds for the payment of all costs of production are supplied by the enterprises themselves.<sup>1</sup> If this is the case only non-credit money would be in circulation, that is, money which consists either of monetary metal or certificates thereof, or of paper money created and distributed by the government. Deposits which are created by banks through the purchase of public and private long-term securities could also be considered as non-

<sup>1</sup> One of these schemes for the circulation of money is described by Hans Neisser ("Der Kreislauf des Geldes" in *Weltwirtschaftliches Archiv*, April 1931, pp. 369 ff.) as follows. The commodities are delivered from one level of production to the next, while payment follows in the next period. (Neisser assumes that the time needed for payment is equal to the time needed to move a product through one stage of production.) If production is a continuous process payments made during one period would consist of payments made by consumers at the last step of production, and of payments made by all enterprises for their raw materials. The monetary funds in circulation, therefore, are composed of the "business fund" (needed to pay for raw materials) and the "income fund" (needed to pay wages, etc.). Neisser does not describe how this money came into circulation. He points out that an extensive growth of production will be facilitated either by bank credit or by a decrease of the prices for labor and raw materials (p. 393). The development during the last century would suggest, however, that an increase of production is made possible by an increase of the amount of money and credit rather than by a decline of prices.

credit money, if we use the term "credit" only in the sense of short-term commercial credit, that is, credit extended for one period of production. We could include here also deposits created originally against short-term loans which were not paid in time or were completely defaulted. The creation of deposits against government loans or private long-term securities is an action not automatically connected with the functioning of the present monetary system and could be considered an outside event, like the discovery of gold.

Except for the deposits created against government loans and private long-term securities, by far the greater part of the volume of money in the United States is created against short-term loans, and only a relatively small amount is based on gold and silver or represents fiat money of the government. The same is true for most of the other countries with developed industrial and banking systems.

The assumption that current expenses of production are financed with short-term credits is supported by the consideration that the interest rate on such loans is usually lower than the rate for long-term capital. Therefore a scheme which is built up on the assumption that short-term investments are wherever possible financed by bank credits might approach the facts more closely than would the assumption that working capital is provided by the enterprise itself.

The process of production consists of several consecutive steps, the first being the extraction of raw materials from the earth, the last the transfer to the consumer. At each step current expenses are financed by the banks. At the first step short-term credits have to be provided for labor only, at the second for labor and raw materials, the raw materials for the second step being the product of the first. Money which the producers at the first step receive for the sale of their products is therefore ultimately provided by commercial banks. They use this money to pay back their short-term bank loans, to replace their equipment and to pay interest on long-term loans, distributing the rest to the stockholders. The

producers at the second step sell their products to the producers at the third step, who pay for these products (their raw materials) by money obtained from commercial banks. With this money the bank loans of producers at the second step are repaid, and replacements, interest and dividend payments of these industries are made.

This repeats itself until the last step is reached, when the products are sold to the consumers. The latter pay with their income, which they received as wages, interest and profits. This money is used by the enterprises at the last step (mostly the retail merchants) to pay their short-term bank debts, to make replacements of their equipment and to meet the interest on their long-term debts, the rest being kept as profits. That part of the money stream which is reserved for replacements of the equipment goes to the producers of producers' goods.

We can assume a similar structure for industries of producers' goods as for industries of consumers' goods. The gross income at the last step in producers' goods production represents the total amount of replacements. This gross income is used as in all other fields of production for repayments of bank loans, replacements, interest and dividends.<sup>1</sup>

It can easily be seen that money on its way from consumer to consumer does not always go through the commercial banking system (which for present purposes is to be distinguished from saving banks). First of all, income spent for services goes back to income recipients; previous financing is not necessary since services are not performed unless they are ordered. Income spent on rent goes to income recipients as far as interest on mortgages and profits of house owners are concerned. That part of rent payments which is used to pay for repairs and replacements goes to construction enterprises, and these pay a part of it to banks for credits, which they needed during their working period, and use the other

<sup>1</sup> A similar scheme to illustrate the process of production, but without including the monetary part, has been set up by E. F. M. Durbin in his book, *The Problem of Credit Policy* (New York 1935) pp. 34 ff.

part for replacements in the building industry and for interest and dividends. These two latter branches lead also directly to income. The remaining part of consumptive expenditures goes to retailers of consumers' goods. Here the larger part is used, as pointed out before, to repay bank loans. The rest is divided between replacements, interest and profits. The two latter items constitute immediate income; replacements constitute immediate income only so far as interest and dividends at the last step of producers' goods production are concerned. This branch of the money stream is also outside the commercial banking system.

Out of all industrial incomes only those of the producers at the last step in consumers' goods industries (interest, dividends and often also wages), and the small part of capital income of manufacturers at the last step of producers' goods industries, cannot be created by bank credits. All other industrial incomes, wages as well as capital income, are ultimately bank credits. Therefore, as shall be seen later, the money necessary for increased incomes of retailers and of all those who earn their money from services cannot be provided by an increase of bank credits.

This part of the money stream has to be fed by non-credit money as described above, or by money created against credits used for other than productive purposes, as for example for speculation and consumption. This would also be the case if the period of credit is extended over the period of production or transaction which it is supposed to finance.

The relation between credit and non-credit money (in the sense used here) can be subject to changes. If a producer decides not to spend his profits but to substitute them for short-term bank credits, the volume of credit money will be reduced, which will result in a fall of prices of consumers' goods and services. A change in demand from services to industrial products or vice versa might also have consequences for the supply of money. In the first case the demand for industrial products would increase, the demand for services decrease, thus leading to an increase of production and consequently to an increase of the volume of credit and deposits.

This, in turn, would lead to a general increase of prices and a secondary increase of production. The opposite would happen in the second case. An increase of purchases by ultimate consumers or long-time investors from enterprises having a large proportion of fixed costs and profits at the expense of enterprises having a high wage rate, would lead to a decline of the volume of credit and money.

It depends on the structure of the financial system, therefore, whether a change in demand constitutes merely a transfer of purchasing power or a change in its volume. It is evident that retail and service enterprises could not be maintained if commercial-credit money alone were in circulation. Profits or wages for the owner of the enterprise at the last step of production could not be supplied under such conditions, unless he used bank credits to finance also his fixed costs and income.<sup>1</sup>

## II

### *Development of Retailers' Income Under Increasing Production*

With this schematic description of the monetary stream under static conditions it is possible to turn now to the monetary problems which arise during the recovery period of the business cycle, particularly when production utilizes an increasing part of existing capacity. It may be assumed to begin with that the producers of consumers' goods at all the different steps of production anticipate an increase of their business. The reason for such optimism can be omitted in this connection because, whatever explanation is given, it would cause no difference in the results.

Under this assumption the producers at the first step will increase their short-term loans from the banks in order to hire and pay more workers. The same will happen at the second step, but the loans at the second step have to cover also the purchases of the products of the first. Therefore it will be possible to increase the

<sup>1</sup> Durbin, *op. cit.*, p. 29, makes the statement that the gross income must be equal to the costs if the production is organized in one large trust. This would be correct if money created against commercial credits alone were in circulation.

profits of the producers at the first step. In similar fashion an increase of profits for the producers at the second step is secured by the extension of credits to the following step. The last step where money for profits is provided by bank credits to the purchaser is the next to the last step, that is, the step before the retailer.

The increase of the retailers' receipts is equal to the total increase in purchasing power of all income recipients, wage earners and profit receivers at the steps above (if we assume that all additional wages and profits are used for the purchase of consumers' goods).

As long as the new commodities are not finished and ready for sale, the increase of receipts constitutes an increase of net income for the retailers and performers of services. After the newly produced articles are sold the additional incomes of the retailers equal the total increase of purchasing power, minus whatever the retailers themselves have to pay for these commodities and whatever part of the new income is used to buy services.

It is easily seen that the net income of the retailers will be smaller than it was before, even if no part of the additional income is saved. The additional income is created by credits to enterprises producing consumers' goods at the levels above the retailer. Thus the additional income equals the increase of the aggregate price which the retailers have to pay to the producers at the level above. The increase in gross income of the retailers will be the additional income minus the increase in the purchase of services and, as will be explained below, minus savings plus the additional income in the producers' goods industry, which is provided by bank credits.

If these savings are made by enterprises and used without delay to enlarge the enterprise with its own working force, that is, without giving orders to another enterprise, the purchasing power is transferred to workers.<sup>1</sup> This transfer might involve a short lag in

<sup>1</sup> Railways and public utilities, for example, may use their own working force for new construction work or for improving and increasing their equipment.

purchases but this seems unlikely or negligible, since the turnover of money used for dividend incomes is far slower than the velocity of money used for payments of wages. There will be very little difference, therefore, for the retailer of consumers' goods in this case.

In most cases, however, these new savings are placed at the disposal of another enterprise (through the purchase of stocks, bonds or mortgages), and the new equipment is bought from enterprises specializing in the production of producers' goods. The production of the new equipment will start after the profits are realized or at least expected with certainty, or after these funds are at the disposal of the enterprise which desires to enlarge itself. In so far these funds will be withdrawn from circulation. The banks have to create new money so that raw materials and workers in the producers' goods industries can be paid.<sup>1</sup> The amounts paid out for these purposes must be smaller, however, than the savings, since these savings must cover also the profits and depreciation of the producers at the last step of producers' goods industries. The savings minus the credits to producers of producers' goods, therefore, will not be available for purchases of manufactured consumers' goods. If the savings are anticipated and producers' goods produced before they are ordered, there will be a temporary increase in credits and profits of retailers until these credits are paid back when the new means of production are sold.

Incomes which are used for speculation are also withdrawn from the market of consumers' goods as long as they circulate on the stock market, or as long as they are kept idle by bearish traders.

This lack of purchasing power could be overcome by the creation of consumers' credit and by an increase in non-credit money. Consumers' credits alone would not be sufficient, however, if they were not available for the purchase of services and if they were

<sup>1</sup>If instead of new money being created the proceeds of the issue of new bonds, mortgages, etc. are deposited in banks and used by the banks to finance the increase of production, as described above, then the same results are obtained.

not supplemented by credits for the purchase of long-term producers' goods.<sup>1</sup>

We are assuming that the production of all articles has to start with the production of raw materials. This is followed by an increased activity of the manufacturers and dealers at the other steps, so that these articles can be sold only a certain time after the first raw materials were obtained. If we change this supposition and assume that manufacturers have a certain amount of inventories, which can be used as soon as they expect more sales, production will start at all steps simultaneously. The new purchasing power, which is constituted by the additional income distributed at the different steps of production before the last, will be equal to the amount which has to be paid by the retailers to those from whom they buy these additional products (provided the additional production is in the established proportion at all steps preceding that of the retailers).

It is evident also that an increase of wages will lead to increased credits if the banking system is elastic enough. The additional purchasing power will be used for the purchase of finished industrial products and services, so that the profits of the retailers will increase, as long as they sell the products which were produced before the increase of wages had its influence on prices in upper levels of production. A reduction of wage income due to technological changes would lead at first to reduction of credit money and consequently of consumers' goods purchases, equal to the reduction of the payrolls. The price of the product whose production has been improved will not, however, fall as much as the payrolls, since depreciation charges have been increased, or it will not fall at all, if savings in costs are used to pay more dividends. Therefore the credits needed at the step below will have to be as large as they have always been (in the case of increased profits), or some-

<sup>1</sup> This problem is touched upon by Durbin, *op. cit.*, p. 37, footnote 1: "At the same time it is curious to notice that if at any moment it were necessary to increase production from a stationary situation with general unemployment, this difficulty would become a reality. The necessary circulating balances would have to be provided at every stage, including that of direct consumption."

what reduced, but not as much as at the step where the improvement took place. The reduction in purchasing power for consumers' goods will continue until the funds diverted for profits or for depreciation arrive again at the final distributors of consumers' goods. It is probable, however, that falling purchases will have their consequences in the meantime, and will cause a general change in the trend of business activity.

Additional credit money to enable the maintenance of the profit and price structure can be provided—as already pointed out—by a continuous increase of production. Production can increase in different ways, however; as shown in Schemes I and II in the appendix, a straight line increase would be sufficient only to maintain the net income of the retailers (but not prices), and that only if the total of the newly created purchasing power were spent on their commodities. In order to provide permanently a sufficient amount of purchasing power also for services and savings, production would have to increase in a geometric progression.

As long as the increase of production continues at the same (geometric) ratio, and as long as there is no change in the distribution of income between manufactured consumers' goods (or, more exactly, consumers' goods whose production has been financed by bank credit) on the one side, and savings and services (and all goods whose production has not been financed by bank credits) on the other, net income at the last step of production and prices of consumers' goods will continue to increase. The more stages of production the material has to pass, or the more time is required until it reaches its ultimate destination, the larger will be this increase of profits and prices. At the moment, however, when production becomes stabilized, that is, when the increase at the first step equals the increase at the last, the hitherto concealed lack of purchasing power for manufactured consumers' goods becomes obvious. This stabilization may occur whenever the limit of the productive capacity in one of the steps of production is reached. It seems probable, however, that in the normal course of recovery there is a decrease in the portion of the national income which is

spent on consumers' commodities financed by bank credits. There is an increase in savings, and therefore also in profits and depreciation costs in the producers' goods industries (which are not paid by commercial credits), but most likely also in expenditures for services. As is shown in the appendix, a relatively small change in this proportion, in favor of the latter goods and services, can be sufficient to curtail the income and prices of all enterprises engaged at the last step of production. The same would result from a decrease of the ratio of the growth of production. This would lead to a curtailment of production even before the limits of productive capacity were reached. It is conceivable, of course, that the losses of the retailers are transferred to the step above, but this would mean a reduction of bank credits needed to buy the products from this step. The purchasing power would be reduced by the same amount and the losses would remain the same.

The most likely consequence of lack of purchasing power for industrial products would be that the managers of the enterprises at the last step of production, who see that they cannot sell their commodities at the price they used to charge, would reduce their purchases from the enterprises at the step above. This would reduce the amount of credit money at that step, but also employment and orders for raw materials, which in turn would cause similar changes at all other steps. The decline in the amount of credit money would reduce production and purchases still more until the supply of non-credit money (as far as it is not hoarded) and the remaining supply of credit money would be sufficient to provide for prices which compensate costs and make it possible to buy all the commodities which are produced.

An economic system like ours, but built up on credit money alone, could lead to depressions which are practically without bottom. The non-credit money operates as a parachute and, if it is not hoarded, provides also for a lower limit of purchases. It is evident that this lower limit of the depression will be reached the earlier the greater the importance of non-credit money and the volume of non-commercial credit.

The question arises now, how production of consumers' goods could be stabilized on the level which it reaches at the peak of prosperity. First it must be emphasized that the development as described here is not the only cause for depressions. There are many theories which explain that investments are reduced because the prospects of profits which are to be earned by the utilization of new means of production have been lowered. This leads to a reduction of employment if the profits are hoarded instead of invested. There are also other explanations possible as to the reason why the volume of effective money is reduced. The lack of purchasing power caused by any of these circumstances would have to be compensated. But that would not be sufficient. There would have to be provided an additional amount of purchasing power, equal to entrepreneurs' incomes, depreciation and interest on the enterprises at the last step of production of producers' goods, including services.

The creation of this purchasing power, however, would have to be through public works, not through the production of commodities which are ultimately to be sold within the country. Exports, if financed by bank credits, could temporarily provide such purchasing power, but the situation would not be improved if imports were increased or if savings were used for long term foreign loans, by which the original bank credits would be redeemed.

A net increase of consumers' loans, if provided by bank credit, would relieve the situation, but would scarcely be sufficient to compensate hoarding as well as the lack of purchasing power for the increase of production and services as explained above. The same would be true for stock market credits, if they turn ultimately to the market of consumers' or producers' goods. The increase in the volume of stock market credits is closely connected, however, with the continuation of the speculation boom, and is only to a minor degree connected with industrial output.

This additional purchasing power, which would have to be provided at the moment when the sale of goods at the last step of

production meets increasing difficulties, seems to be less dangerous than a policy which attempts to reestablish equilibrium by a reduction of prices and production.

### *Appendix*

In order to demonstrate the increase of money during the upward part of the business cycle the data have to be simplified still further.

We may assume four steps of production, the last being the retailer. The new wages distributed during one period of production at the first three steps shall be  $W = 4$ , the costs of replacements  $R = 4$ , and profits  $P = 2$ . The part of the new income used for the purchase of manufactured consumers' goods shall be  $x$  ( $x < 1$ ). The additional gross income of the retailers will therefore be  $x$  times the net increase in purchasing power. The net increase in purchasing power must equal the total additional issue of money by banks to finance the production, since the upward movement started without the loans which have been paid back. This presupposes, of course, that profits are immediately consumed or invested and that replacements are made without delay after receipt of the funds. Since this assumption is somewhat too optimistic, our example is likely to show rather too favorable results.

By "period of production" is meant the average time a product needs to pass through one level of production or to pass from one producer to the next. This period must be identical with the time for which the short term loan has been taken.

In the first example (Schemes I and II) production will increase in a linear function, that is, in the first period it will be  $\Delta Q$ , in the second  $2 \Delta Q$ , etc.

It is assumed, furthermore, that at the first step of production capacity is reached in the sixth period. Thereafter production at the first step remains stationary, but increases at the other steps until it reaches  $6 \Delta Q$ .

## SCHEME I

Period	1st Step		2nd Step		3rd Step		4th Step		Retailers' New Income		
	of Pro- duction	W	PR	W	PR	W	PR	W	Gross	Net	Net, if $x = 1$
1	4								4x	4x	4
2	8	6	4						18x	18x	18
3	12	12	8	6	4				42x	42x	42
4	16	18	12	12	8	6	4	67x	76x-34	42	
5	20	24	16	18	12	12	8	110x	110x-68	42	
6	24	30	20	24	16	18	12	144x	144x-102	42	
7	24	36	24	30	20	24	16	174x	174x-136	38	
8	24	36	24	36	24	30	20	194x	194x-170	24	
9	24	36	24	36	24	36	24	204x	204x-204	0	

The development as shown in Scheme I is independent of the units or the number of steps chosen. It shows that only if the whole increase in purchasing power is used for the purchase of industrial consumers' goods (if  $x = 1$ ) can the net income of the retailers be preserved while production continues to increase. If a part of this new purchasing power is diverted to savings or services or if it is hoarded (if  $x$  is less than 1), the net income of the enterprises at the last step of production starts to decline in the moment the first portion of the new products appears on the market. The fall of the net income of these enterprises is inevitable when production begins to become stationary.

While there is a theoretical possibility of a preserved net income for the producers at the last step, it is impossible that the retailers' margin per unit, or their sale prices, can remain stable if they try to sell all the new products which they receive. Prices have to fall even in the fourth period, when the first part of the new production is to be sold. This will be the case under our assumption of a linear increase of production, no matter whether or not the whole of the new purchasing power is available for these commodities (i.e., even if  $x = 1$ ).

To provide enough purchasing power for the maintenance of prices after the new products reach the ultimate consumer, the

SCHEME II

Period of Pro- duction	Increase of Pro- duction	1 <sup>st</sup> Step				2 <sup>nd</sup> Step				3 <sup>rd</sup> Step				4 <sup>th</sup> Step				Retailers' New Income	
		W	PR	W	PR	W	PR	W	PR	W	PR	W	PR	W	PR	Gross	Net	Net	Net, if $x = 1$
1	1	4														4x	4x	4	
2	2	8	4	16	8	32	16	64	32	128	64	128	192	192	192	18x	18x	18	
3	4															46x	46x	46	
4	8															102x-34	68		
5	16															204x-68	136		
6	32															408x	408x-136	272	
7	32															688x	688x-272	416	
8	32															928x	928x-544	384	
9	32															1088x	1088x-1088	0	

incomes of the producers at the steps before the last have to increase more quickly than the supply of products at the last step. If wages per unit remain the same this can be achieved only if at any given time production at each step is larger than at the following, that is, if production increases in a geometric progression. A development like this is shown in Scheme II, where the increase of production in each period is twice as large as the increase of production in the period before.

It is evident that an increase of production in a geometric progression is sufficient not only to increase the net income at the last step, when the new product arrives at its final market, but also to keep prices from falling, since  $\frac{dO}{O_n}$  must always be smaller than  $\frac{dI}{I_n}$  ( $O_n$  being the output at the last step in period  $n$ , whose increase lags behind the increase of income  $I$  for the number of periods which the product has to pass before it reaches the consumer).

If  $x$  is less than 1 the increase ratio of production has to be larger, in order to make possible the sale of all products at the prevailing price level. The faster the increase of production occurs, the smaller can  $x$  be without endangering the price structure. But  $x$  may not stay stationary during the whole period of the upward development of production. The portion of income going to savings, speculation, hoarding and for services may increase. This could lead to a fall of prices, even if production continued to increase at the same ratio.

It is more than likely that the ratio of a geometric increase of production cannot be maintained to the capacity limits of production. If the increase ratio of production becomes smaller the price level may fall, especially if  $x$  is comparatively small. The fall of prices may not set in, however, before several periods have been passed and the lack of new income assumes larger proportions while the output of finished goods still continues at the former rate.

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# ON "PROPORTIONAL REPRESENTATION AND THE BREAKDOWN OF GERMAN DEMOCRACY"

BY JOHN H. HUMPHREYS

DR. HERMENS, in the November issue of *Social Research*, compares majority and proportional methods of election and concludes his article by affirming that the form of proportional representation adopted by Germany was "an essential condition" of the breakdown of democracy in that country. Methods of election play so important a part in the life of parliamentary countries that Dr. Hermens' comparative examination of their merits is greatly to be welcomed; democracies are entitled to the best method of election that man can devise.

Dr. Hermens favors majority systems. I accordingly propose to examine the majority system as it works within Great Britain, to direct attention to its defects, to outline the reform proposed to meet these defects, to compare this reform with "proportional representation of the German kind," and finally to indicate what, in my view, were some of the causes that led to the breakdown of German democracy.

In Great Britain each constituency—there are a few exceptions—elects one member. The seat falls to the candidate who polls a relative majority of the votes; there is no second ballot. To illustrate its defects it will suffice to examine the postwar elections. The first took place almost immediately after Armistice Day, 1918. It was not necessary to hold the election so soon; it seemed to many that the party organizations favorable to a dissolution of Parliament were willing and anxious to turn into political cash all the sacrifices made in a common national effort. The electoral system played into their hands. There was practically no time for those holding moderate views to organize; the electors had little

alternative but to vote for the candidates approved by the Government that had won the war. Dr. Hermens tells us that "the majority system is the most powerful agency yet devised for political moderation." In practice, in this election, held in a most fatal period of world affairs, the majority system deprived of representation and effective leadership the great body of English voters who held moderate views. Dr. Hermens lays great stress on the value of the moderate balancing elector; in this "Hang-the-Kaiser" election he did not count. The new Parliament was responsible for the Peace of Versailles. There is printed in Signor Nitti's *Peaceless Europe* the memorandum on peace terms which Mr. Lloyd George circulated at the Peace Conference. Signor Nitti describes it as "a memorial full of wisdom and moderation." When news of this memorandum became known in London a telegram was sent from this grossly one-sided House of Commons signed by 300 members reminding Mr. Lloyd George of his election pledges. Most Englishmen are ashamed of this monstrous election.

Nor was there much evidence of moderation in the Zinovieff letter election of 1924. A comparatively unimportant incident was exploited to the full. Moreover, the majority system gave remarkable results. The Conservatives polled less than one half the votes cast, yet they gained an overwhelming majority of the seats. Incidentally the majority system cut short the political careers of many promising young members of the previous Parliament, men who had nothing to do with the Zinovieff letter. The English system does not discriminate. A swing of the pendulum, however caused, destroys many of the most active, young and old; it leaves unscathed those with "safe" seats, a possession often associated with a long purse.

"In a democracy," says Dr. Hermens, "a legal opposition is as necessary as the government is." In another of the postwar elections, that of 1931, the majority system almost destroyed the Opposition. Labour won but a few mining and urban areas in which the party is permanently predominant. For four years the

Opposition was too weak in numbers and in personnel to discharge effectively its duty of constructive criticism. Canadian provincial elections give examples of the complete non-representation of the Opposition. The majority system does not assure that which Dr. Hermens declares to be "necessary."

One further point. "There can be no democracy," says Dr. Hermens, "if the electorate cannot express clearly and positively what it wants." I fully agree. But how, under the majority system of Great Britain, in which the choice is limited to two candidates, can the elector express clearly and positively what he wants? Consider the election of 1935. It was preceded by the speech made by Sir Samuel Hoare, at Geneva, that thrilled many Englishmen. Great Britain, it seemed, was prepared to take the lead in making effective the work of the League of Nations. What were the electors to do in the presence of such a pronouncement? The Labour Party had not regained general confidence; the Government candidates were mostly Conservatives. The electors voted as best they could. The election gave a very large majority to the Conservatives. The sequel is instructive. Soon after the election the Hoare-Laval proposals respecting Abyssinia were announced. The public protested, and the proposals were withdrawn. The point of view expressed in the protest was not sustained. It was not adequately represented in the House of Commons. The Government and the largely Conservative Parliament pursued the policy it preferred. Had the great body of opinion in Great Britain in favor of adhering to the declaration of Sir Samuel Hoare been positively and proportionately represented in the House of Commons, it would have exercised a considerable influence in shaping the world history of these recent years.

When I survey the postwar elections of Great Britain I am more and more impressed with the truth of a saying of Lord Courtney of Penrith, the greatest of English advocates of proportional representation: "You can have electoral machinery," he said, "that lets life live; you can have machinery that deadens life." How much life in Great Britain has been deadened or

suppressed in these postwar years by the majority method of election? Sincere political thinking and sustained effort have been frustrated so often as to create among many a sense of despair. The statement of Dr. Hermens that "supporters of proportional representation have always regarded political will as static" misrepresents completely the views of those who are working for reform in Great Britain. We are working that political life may be more vigorous, that the political thinking and disinterested devotion to the progress of mankind, of which so large a portion of the British people is capable, shall have more effective channels through which to find expression.

But I cannot leave this survey of the British electoral system without calling attention to another aspect of the majority system. The word "gerrymander" is more than a hundred years old. The majority system facilitates such an arrangement of the boundaries of constituencies as will favor a particular party. It was thus that Governor Gerry, of Massachusetts, insured a victory for his party, although it was in a minority. Gerrymandering has not ceased. In this year of grace the wards of the city of Londonderry are being so arranged as to insure that the Nationalists, who are in the majority, taking the city as a whole, shall have but eight seats out of twenty on the Municipal Council. The resulting bitterness cannot but add to the difficulties that the problem of Ireland presents.

But putting aside gerrymandering and all the other frauds and corruptions that have disgraced democracies on both sides of the Atlantic, it remains a serious charge against the British majority system that the result of a general election depends very materially upon the way in which the contending political forces may be distributed among the constituencies. Let me illustrate with figures of the votes polled by Labour in London and in the eleven counties in England south of the Thames and Severn:

	<i>Labour Votes</i>	<i>Labour Seats</i>
London	759,519	22
Southern Counties of England	836,573	0

In the southern counties the Labour Party polled nearly 840,000 votes and failed to elect a representative; the Labour forces were so distributed that in no constituency did they have a majority. In London, however, Labour secured 22 seats, and with fewer votes. Its forces were concentrated in the East and the Southeast of London. If Labour votes had been evenly distributed over London, Labour would not have won a seat. One other illustration, from the two general elections, 1929 and 1935.

	<i>Labour Votes</i>	<i>Labour Seats</i>
General Elections, 1929	8,389,512	288
General Elections, 1935	8,465,068	145

"There is no bigger gamble on earth than a British general election," said Mr. Middleton, Secretary of the Labour Party of Great Britain, after the last general election. He was not thinking about proportional representation; he had compared the figures of the last three general elections. Ought a general election, a serious consultation of the people on great affairs, to partake so much of the nature of a gamble that no one is in a position to say whether the results will be reasonably fair; whether great bodies of opinion may have little representation; whether or not their leaders will be struck down; or whether a minority will obtain a majority of the seats? Does Dr. Hermens really think that such a system is the best that we can fashion?

Many in Great Britain think otherwise. But the proposals for reform are not doctrinaire; practical considerations count. I was interested in the statement of Dr. Hermens that there was "no political science in German universities," and that "the democratic wing of students in public law was dominated by Kelsen's system of 'pure law,' which relinquished all regard for the practical working of political institutions." This may, at least in part, explain the difference between the British and German conceptions of proportional representation. In Great Britain we are concerned with the removal of substantial grievances. The phrase, "proportional representation," contains two words, "proportion-

tional" and "representation," and in proposals for reform we have to regard not only proportionality, but the other requirements of a representative system.

We propose to revive, as far as possible, the old historic constituencies of Great Britain, the great towns and the counties, constituencies of the "community" type commended by Lord Bryce and others. The city of Bristol is such a constituency. Today it is divided into five single-member areas. Under proportional representation Bristol would become a single constituency as it was for six hundred years; it would return five members. Leeds would return six; the county of Hertfordshire five; and so on. London and the larger counties would be divided. All the constituencies would be moderate in size. The method of voting proposed is the single transferable vote. The elector does not vote for a party list; he votes for persons in the order of his preference, by placing the figures 1, 2, 3, and so on, against their names. Dr. Hermens, describing the German system, says that "the people at the top of the list appoint each other regardless of their efficiency." In the British proposals no party organization has authority to place any candidate at the top of the list; the electors decide, by their preferences, who shall be elected.

In constituencies returning on an average five members each there is little room for "splinter" parties. The Irish Free State has used the system for sixteen years; Tasmania has used it for thirty years; in neither place are there many parties. In the Irish Free State the first Government lasted for ten years, and the second bids fair to last a similar period. The present Prime Minister of Australia, Mr. Lyons, has testified to the general satisfaction which the system has given in Tasmania, and when Premier of that state declared that "a return to the old system of single electorates would take us back to the parish pump."

One word as to the influence of the system upon the nature of the voting. Mr. R. J. P. Mortished, formerly of the Irish Labour Party, organizer and candidate, says that "the system encourages thoughtful voting; plumping for a single candidate

or party is discouraged by the system; the elector is forced to make comparisons." Many other Irishmen, including Mr. Stephen Gwynn, have testified to the satisfaction, the power, the freedom and the responsibility which the single transferable vote system confers upon electors.

The German proportional system was different. It gave extreme expression to the idea of proportionality; it endowed party organizations with special powers and privileges; these were entitled to determine the order in which names should appear on the party lists, the order in which candidates should be elected; these lists were "fixed"; the elector had to accept a list as it stood; each list was given a number; and the criticism was often made that all the elector could do was to vote for a number. This irritated thoughtful electors and added to the strength of the many reactions against the Weimar Constitution.

But in spite of its defects I do not regard the German form of proportional representation as "an essential condition" of the breakdown of the republic. Sweden, Norway, Denmark, Holland, Belgium, Switzerland, all neighbors of Germany, use list systems of proportional representation, not indeed so rigid as the German form. These democracies of longer experience continue in spite of all the difficulties of the postwar years. In this matter, however, it may be more fair to compare Germany with Czechoslovakia, for the two republics date from the war and both adopted proportional representation systems with "fixed" lists. German thought influenced the character of the proportional system adopted by Czechoslovakia. Germany in many ways possessed more advantages than Czechoslovakia: there was but one language; the Reichstag had given to the country a sense of unity. In Czechoslovakia there were several races and languages; there had been no unifying parliament. Yet with the same "fixed" list system of proportional representation, the Czechoslovakian republic remains. Is it not reasonable to conclude, therefore, that the breakdown of German democracy was due to special conditions that affected Germany and did not affect Czechoslovakia? We can examine

some of these factors, but before doing so I would like to pay tribute to the work accomplished by the German republic under most difficult conditions. A considered appraisal of the positive achievements of the German republic is overdue. Certainly, during its fourteen years of existence, there was increasing goodwill among the other nations for Germany.

What then differentiated Germany from Czechoslovakia? The German republic was born in the hour of defeat; it was compelled by the Allies to sign what Germany regarded as a humiliating treaty. If the Allies and the United States had welcomed the German republic and had negotiated with it as to the terms of the Peace Treaty, the Allies would have won the peace; the German republic would be in existence today; representative government would be in existence over a large part of Europe. The primary cause of the downfall of German democracy was the lack of consideration given by the Allies and the United States to the republic in 1919 and in the subsequent postwar years. The majority system used in Great Britain in the "Hang-the-Kaiser" election contributed to this lack of generous treatment.

The second cause is allied to the first. The Czechoslovakian republic was the creation of those who had fought for the new state; in Germany it was to a considerable extent imposed from without. President Wilson informed the German government that if it was still necessary to "treat with the military authorities and the monarchical autocrats of Germany . . . they must demand not negotiations for peace but surrender." Many in responsible positions would have preferred a constitutional monarchy. Germany should have been given complete freedom of choice.

But the German republic was established and the Weimar Constitution adopted. This included other provisions besides that of proportional representation. My own view is that in spite of its rigid form the proportional system was of material advantage to Germany. As in the Irish Free State, so in Germany, the proportional system tended to keep representation on an even keel. It avoided—and in the early days of both countries this was im-

portant—the dangers of violent swings of the pendulum. The electoral law also conferred the franchise upon everyone twenty years of age, weighting the scales in favor of those inexperienced in the problems of life.

The practical working of the Constitution depended, however, upon the action taken by political parties. In Great Britain there is a tradition that "the King's Government must be carried on," and the political parties act accordingly. In Belgium when no one party had a majority M. Vandervelde, the leader of the Belgian Labor Party, said, "Belgium must have a Government." He invited progressive parties to compare their programs and to form a Government to carry through the policies held in common. In Germany there was less sense of the responsibility resting upon parliamentary parties to provide the nation with a Government. There were no more parties in the Reichstag than in Czechoslovakia and if there had been within Germany a more general will to make a success of the republic and if the efforts of Stresemann and of Brüning had been more promptly appreciated by the Allies, the republic would have survived.

Dr. Hermens himself directs attention to an important cause of the breakdown of German democracy. He says, "it was a mistake to establish in Germany a mixture of the American system of an independent presidency and the parliamentary system of government, since between the two systems no compromise is possible." No one can read Mr. Wheeler-Bennett's *Hindenburg, the Wooden Titan* without coming to the conclusion that this was a fatal mistake. It was possible for Hindenburg, an old man, with all his old-time prejudices, to dismiss the government of Brüning. Mr. Wheeler-Bennett's book—it should be read by every student of German affairs—is a revelation of the intrigues that preceded the destruction of the republic and of the consequences of entrusting to the president such vital powers.

One final word. Lord Howard of Penrith, who was the representative of Great Britain in many European capitals as well as at Washington and who therefore has had considerable experi-

ence with the working of democracy under widely varying conditions, has expressed the view that European countries would have been well advised "if instead of attempting to follow the British example of Parliamentary government they had followed rather the Swiss example." In Switzerland no senile president can dismiss a Government. Further, the constitution places directly upon Parliament as such, as its first task after the elections, the duty of providing the nation with a Government which remains in being while the Parliament lasts. The Government is not only democratic in its constitution but it is one of the stablest in the world. The executive contains German, French and Italian speaking Swiss, it contains Protestants and Catholics, it contains members of different parties. It is the nation's government. What Switzerland has done can function on a larger scale. Dr. Hermens speaks of the despair of some democrats in Germany. Let them take courage. Good government does not depend upon a majority system such as, in Great Britain, turns an election into a gamble and frustrates so much of its political life. Europe provides examples of continuing democratic government associated with fair play, in the matter of representation, to all the main political forces existing within the country; and only on a basis of fair play can democracy fulfil the aspirations of its advocates, the lifting of mankind steadily but surely to a higher civilization.

*(Secretary of The Proportional Representation Society of London)*

## REJOINDER

BY F. A. HERMENS

THE way in which Mr. Humphreys objects to my article makes it an agreeable task to answer him. Mr. Humphreys does not appeal to sentiment; the broad factual knowledge which he possesses puts more efficient weapons into his hands. A discussion on this basis cannot but be mutually instructive, and I am

glad to discover that we have a certain amount of common ground.

Nevertheless, my disagreement with Mr. Humphreys is of a fundamental nature. He starts from the assumption that "the object of a representative body is to represent."<sup>1</sup> But as I have previously attempted to demonstrate,<sup>2</sup> the object of a representative body is no longer to represent, but to govern. The term "representation" presupposes three factors: the person or persons represented, the representative, and a third factor, independent of the first and the second, before whom the representation takes place. As long as a dualism existed between parliament and the (royal) government the third factor was present: the members of parliament represented their constituents before the government. It is the essence of parliamentary government in the modern sense of the word that this third factor no longer exists. Parliament must now replace it. This involves a fundamental change in function; instead of "representing" the electors before the government parliaments must themselves constitute the government, and thus since true representation no longer exists, all conclusions drawn from this concept are without foundation, including the demand for "proportional" representation.

It is not hard to see the practical implications of this change in the fundamental purpose of parliamentary bodies. "Representation" was a simple matter. No matter how many differences there were in the electorate they could all be reflected in parliament. The king and his cabinet remained as the final arbiters; they could select from the demands of the deputies what they liked and reject the remainder. Hence, in view of the diversity of interests advocated in parliament, they constituted the unifying element. As soon as parliaments themselves must constitute

<sup>1</sup> Great Britain, Royal Commission on Systems of Election, *Report*, Cd. 5163 (London 1910) p. 28.

<sup>2</sup> Hermens, F. A., *Demokratie und Wahlrecht* (Paderborn 1933) pp. 7-10, and "L'erreur proportionnaliste et la crise du régime parlementaire" in *Revue Politique et Parlementaire*, vol. 163 (June 1935) pp. 429-30.

the government, however, a multiplicity of views becomes fatal for the successful working of the institution. There must be a majority as homogeneous as possible. It alone can give the country a government which is the same for the whole country and before which all individual interests must bow.

It would seem a conclusion of commonsense that only the majority system is compatible with the necessity of creating a governmental majority, whereas proportional representation takes the different groups as they are and allows them to obtain parliamentary strength without any regard for the requirement of creating unity out of this multiplicity. This theoretical conclusion is borne out by an observation of facts. I believe I have proved elsewhere that the majority system promotes unity and that proportional representation does the opposite—no matter how much this tendency may be checked by a failure to carry out the particular system of proportional representation to its logical conclusions. (Incidentally, political science now agrees that it is impossible to base the government of a country upon the "representation of interests," because their diversity prevents political unity and, if left to itself, would produce anarchy. Why not realize that this conclusion applies to any kind of representation and therefore admit that the concept of representation—which after all is only a legal fiction—has no place in the scientific analysis of modern parliaments?)

It follows that there is no injustice and no lack of fairness in the majority system's attributing to one party more seats than corresponds to its poll and to the other less. The object of elections is not to produce deputies, but to elect a government. The election of members of parliament is only a means to this end, and whenever ends and means conflict it is the means which have to give way. Therefore we do not have to worry about the fact that in London 760,000 votes cast for Labour yielded 22 seats and in the southern counties 837,000 votes were cast in vain. We have to consider England as a whole. The country has to make a decision, not to divide a cake. In other words, it must

elect a government, which can be only one, exactly as the United States can have only one president. From this point of view only one thing is relevant: that the majority of the voters—even if the majority constitute only a plurality, although this is a detail about which opinions may differ—are able to elect the government they want. The majority system sees to that. The electorate groups itself either into two major parties, as in England and in the United States (let us add, as it would in Belgium if there were no proportional representation, and as it would have done in republican Austria if there had been no proportional representation), or into two "blocs," as in France. In both cases the election becomes a plebiscite of nation-wide dimensions. What happens to local candidates is immaterial. The charge of "gambling," however, is based exclusively on a consideration of the fate of local candidates, ignoring the character of modern elections as plebiscitary decisions.

There are two points of detail on which I agree with Mr. Humphreys. First, "gerrymandering" is as repugnant to me as it is to him. But it is necessary to add two qualifications. On the one hand, gerrymandering is not necessarily connected with the majority system. Honesty and decency would make it impossible, and wherever there is a government so lacking in these qualities as the government of Northern Ireland—gerrymandering in Londonderry is only one instance—public opinion inside as well as outside the country should not rest until justice has been restored. On the other hand, Mr. Humphreys is mistaken if he assumes that gerrymandering is impossible under proportional representation. It cannot flourish as well as under the majority system, but in all practical schemes of proportional representation it has been possible, and the scheme proposed by Mr. Humphreys is particularly likely to produce this result. Everything depends upon the size of the constituencies. No gerrymandering would be possible if the whole country formed only one constituency, but the smaller the constituencies the greater is the danger. The reason is that in small constituencies a rela-

tively strong minority may be excluded from the distribution of seats, in spite of proportional representation, and if it is not possible to obtain seats for this vote on a national list electoral "justice" is not attained after all. Gerrymandering arises as soon as this result is purposely brought about.

The second point, which permits at least partial agreement with Mr. Humphreys, concerns the necessity of an opposition in a democracy. Let us be careful, however, to distinguish between democratic opposition inside and outside parliament. In the instances mentioned by Mr. Humphreys—the best example is the Canadian provincial parliaments, where the opposition failed to obtain any seat—opposition continued to be possible, and was sometimes even very vigorous, outside parliament. There remain the press, public meetings, and nowadays the radio, to voice it. Hence—and this was my point—there remain democratic groups which are free to oppose the government; they do not have to give the anti-democratic groups a monopoly of opposition.

Nevertheless, I agree with Mr. Humphreys that it is useful to have a strong opposition in parliament—stronger than the opposition of the British Labour Party after the elections of 1931 or that of the American Republicans after the elections of November 1936. Nothing prevents us from recommending institutions which would make possible such a vigorous opposition within parliament. The same solution can be adopted which I have recommended for municipal bodies: provided a substantial majority is assured, a certain number of seats can be reserved for the minority, either by taking away from the majority those seats which it conquered with the smallest plurality, or by creating additional seats for the duration of the parliamentary term.<sup>1</sup> This arrangement would not mean a departure from the principles upon which the majority system is based. It is recommended because it allows *one* minority, conducted with the intention of eventually becoming a majority itself, to serve the public interest,

<sup>1</sup> Cf. F. A. Hermens, "New York and P.R.," Letter to the Editor, *New York Times* (August 23, 1936).

and because it is not based merely upon the claim that all those who demand it should have an equal share in the cake, regardless of whether they are able to fulfil the obligations connected with public rights.

This in so far as the principal issue is concerned. Mr. Humphreys proceeds to discuss many details; he will excuse me for not answering them all on this occasion, for the lack of space does not permit it, and moreover I hope to cover the whole field in a book on *Proportional Representation and Dictatorship*, which is in preparation.<sup>1</sup>

Mr. Humphreys refers first to the British elections of 1918 and 1924, and concludes from their result that the majority system does not lead to political moderation. The issue can be easily clarified if we bear in mind that the term "moderation" has a relative meaning. When I speak of "moderate groups" I include such parties as the present-day Conservative and Labour parties in Great Britain, and I contend that the majority system favors them at the expense of such "radical" parties as the Communists and Sir Oswald Mosley's British Union of Fascist Parties. For this there is ample statistical proof,<sup>2</sup> which unfortunately Mr. Humphreys does not attempt to refute.

On the other hand, it is clear what Mr. Humphreys has in mind when he regrets the lack of moderation in the outcome of the majority system. He compares the Liberals with the Conservative and Labour parties, and it is the defeat of the Liberals which he characterizes as a defeat of moderation. This interpreta-

<sup>1</sup> The reader may refer also to my earlier publications; that is, in addition to those mentioned above: "Die verhinderte Demokratie in Deutschland; Zum Verfassungstag" in *Das Neue Reich* (August 8, 1931) pp. 937-39; "Wahlrecht und Verfassungskrise" in *Hochland* (November 1932) pp. 97-110; "Volkswille, Freiheit und Verhältniswahl" in *Der Österreichische Volkswirt* (March 2, 1935) pp. 423-26, published under the pseudonym Karl Franzen.

<sup>2</sup> Cf. *Demokratie und Wahlrecht*, cited above, pp. 79 ff. The chances for the Fascists under proportional representation would now be greater than I thought in 1932; the victory of National Socialism in Germany has given additional prestige to the Fascist cause and the party would now be a real danger under proportional representation.

tion, however, does not hold. To be sure, the majority system puts the Liberal Party at a disadvantage, and may shortly eliminate it as an independent political force. But what does that mean concerning the principles for which the party stands? The former Liberal electors have not abandoned them. They now for the most part vote for the Conservative and Labour candidates, but under one condition: that these candidates themselves absorb a fair portion of Liberalism. The London *Economist* was justified in saying, "The very weakness of the Liberal Party has induced both the other parties to become more liberal."<sup>1</sup> And in the following issue it was right in adding, with regard to the program of the government, "*Prima facie*, this is a Centre Party program."<sup>2</sup> As a matter of fact, the present-day Conservatives and the majority of the Labour Party are more moderate than many Liberals. The "Liberals" of our day go in for a great deal of state intervention; they recommend public works, although the monetary consequences, as many admit, would be incompatible with free trade. Only recently Mr. Lloyd George, who would probably be the leader of a United Liberal Party if a proportional representation system were allowed to revive it, has found it advisable to give ear to proposals for the perfection of democracy made by Mr. Hitler. If this is Liberalism, I am liberal enough to prefer the leadership of Mr. Baldwin and to rejoice that the majority system gave the victory to him and his party rather than to the official Liberals, who might long ago have adopted another name for their party.

Mr. Humphreys further contends that the majority system does not allow a clear expression of the will of the people. He regrets that in Great Britain the choice of the elector is confined to two candidates. This, however, is a necessary condition for popular expression of opinion on matters of national policy. If the people can vote for only two parties or two blocs, one of them will have the majority. This means, as mentioned above, direct election

<sup>1</sup> "A Quiet Election" in *Economist* (November 16, 1935) p. 945.

<sup>2</sup> "Mr. Baldwin's Victory," *ibid.* (November 23, 1935) p. 999.

of the government by the people and a direct decision of the people on whatever issues have come up during the electoral campaign. If there are neither two parties nor two blocs, the formation of governments must be left to parliamentary groups rather than to the decision of the people. This is certainly not democratic.

But there is a worse possibility. Mr. Humphreys would like a fraction of the electorate, as for example the British Liberals, to have a chance to express themselves for a party and for "principles" of their own liking, rather than having to choose between the minor evils of the candidates right or left of them. It is admitted that the Liberal candidates, when elected this way, would have no majority in parliament. Hence they must combine with other groups. After having flown their Liberal banner openly during the campaign they must put it into their pockets and arrive at a compromise. If there must be compromise, however, why not let the voters decide upon it themselves rather than entrusting it to the groups in parliament and their secret negotiations? Also, it is of great educational value for the voters if they have to make compromises themselves. They are forced to realize that issues are more important than "isms," and that an abstract program is far remote from political reality. On the other hand, give the voters the freedom which Mr. Humphreys—like Victor Considérant and J. S. Mill—wants for them, and they will preserve existing "isms," intensify them and add to them quite a few others. This is what happened in Germany when all the parties were allowed to cultivate their "world outlook" without having to care for such unpleasant things as political realities. Proportional representation first allows the parties to develop such "isms" and then it forces them to betray their sacred "principles" in secret negotiations.

The case which Mr. Humphreys mentions is no departure from the rule that the majority system gives the electorate a chance to make its voice directly heard in politics. Only the majority system made it possible for the British electorate to declare in 1935

in favor of a strong League of Nations policy. The new majority had to subscribe to it before it was elected. It is true that it failed to keep its promises, but that is another matter.

I apologize to Mr. Humphreys for not pointing out the fact, which he has always emphasized, that the electoral system is a dynamic factor. I omitted this in my article because of lack of space. But in the last years of the German republic when, with a few friends, I was engaged in a desperate struggle against proportional representation, the results of which were clear to us, I often referred to Mr. Humphreys' writings in this regard.<sup>1</sup> I was all the more grateful for being able to do so because in Germany every reference to the effects of electoral systems was greeted by the stereotyped reply that the days of "formal" sociology were over and that social structure determined political behavior so thoroughly that there was no room for any appreciable influence of institutions. People simply refused to look at detailed electoral statistics; even those who were supposed to be authorities in the field of government did not know them,<sup>2</sup> and I was told in those days, "There are not six men within the borders of the Reich who know even the principles of electoral statistics." It would have been much simpler to have been able to deal with Mr. Humphreys or someone who had the benefit of his training.

Nevertheless, there remains a difference between what I contend and what Mr. Humphreys would be willing to admit. He would not deny that in England the Liberal Party is in the same position that the Belgian Liberals occupied in 1898; it is dying from the majority system and would immediately recover if a system of proportional representation were adopted. The difference arises with regard to other parties—the Fascists, the Communists, the Agrarians, etc.—and with regard to the profound altera-

<sup>1</sup> Cf. *Demokratie und Wahlrecht*, p. 71.

<sup>2</sup> Nothing characterizes the whole situation better than the fact that the leading book on the Weimar Constitution, the commentary of Professor Anschütz, did not devote even one of its nearly seven hundred pages to a discussion of proportional representation; cf. Anschütz, Gerhard, *Die Verfassung des Deutschen Reichs vom 11. August 1919* (3rd ed. Berlin 1929) p. 169.

tion in the structure of the old parties which in my opinion proportional representation would effect in England as it did in Germany. On the other hand, I am aware of the tragedy which the present situation presents for many prominent and even brilliant young British Liberals, who do not wish to ally themselves with the British Conservatives or with the Labour Party. It is not only, however, on the Liberal Party and the chances which it offers to its members that the majority system has a "deadening effect." Within both the great parties it favors the moderate wings at the expense of the radicals. Mr. Baldwin is closer to the marginal voter than is Lord Lloyd or Sir Henry Page Croft or even Mr. Winston Churchill. This automatically means that Mr. Baldwin, or someone who is as moderate as he, holds the leading position in the party. In the Labour Party Mr. Morrison enjoys the same advantage when compared with Sir Stafford Cripps. It would seem that within a generation the children of the present British Liberals will feel as comfortable in the ranks of the two great parties, led by men like Mr. Baldwin or Mr. Morrison, as their fathers feel now under the leadership of Sir Archibald Sinclair or Sir Herbert Samuel. This is a type of "dynamic" consequences of electoral systems which Mr. Humphreys fails to see.

I agree with Mr. Humphreys that the effects of the various systems of proportional representation—hundreds have been invented, thousands may still be presented to us—differ widely, and that the German experience with proportional representation is to some extent due to a scheme which had been carried to the extreme. But if the German system was bad it was because of its logical consistency. Any other system excludes considerable minorities from "representation" or "adequate representation,"<sup>1</sup> and this is the reason why M. Georges Lachapelle, who is as well known as an advocate of proportional representation as is Mr. Humphreys, recently recommended for France a scheme patterned after the German model.<sup>2</sup> Moreover, if a moderate scheme of proportional

<sup>1</sup> Cf. Schaufl, Johannes, *Neues Wahlrecht* (Berlin 1929) pp. 200-39.

<sup>2</sup> Lachapelle, G., *Élections législatives, 26 Avril et 3 Mai 1936*, pp. xiv-xvi.

representation is introduced, people point to the remaining inadequacies in "representation" and want them too removed. Germany, for example, for the elections to the National Assembly in 1919, had adopted the system of d'Hondt, which favored the parties with a large provincial concentration at the expense of others. Agitation quickly set in for the correction of this "error"; within a year the automatic system was adopted, which gave their full share to the radicals and the interest groups. Once the principle of proportional representation has been adopted how is it possible to refuse to these groups what was given to the others? Shall electoral "fairness" stop when the demands of the British Liberals have been satisfied? I am afraid that a prudent electoral law of the kind suggested by Mr. Humphreys might unloose forces which would easily get beyond control.

Mr. Humphreys points to the effects of proportional representation in Ireland and in the Scandinavian states. I repeat what I have said on this question on another occasion.<sup>1</sup> The effects of proportional representation have been less marked in these countries because the system adopted was less radical—and less consistent—than the German scheme. On the other hand, electoral statistics make it clear that with a majority system parliamentary government would have worked much more smoothly.

The article of Mr. Humphreys contains significant references to the Swiss form of government. It seems to me that Mr. Humphreys, consciously or unconsciously, agrees with the Royal Commission of 1910, which remarked that if proportional representation were introduced, "What arrangements might ultimately have to be made to induce any party to undertake the administration of the country in such circumstances . . . it is impossible to forecast: it is only clear that parliamentary government as now understood in England would become impossible."<sup>2</sup> By destroying the two-party system proportional representation would indeed force Great Britain to resort to government by coalition, and it is un-

<sup>1</sup> *Demokratie und Wahlrecht*, pp. 171-86.

<sup>2</sup> *Report, op. cit.*, p. 29.

derstandable that the English do not like this and would prefer something else. But two questions remain. First, would the Swiss system work as well in Great Britain as it does in a small agricultural country with a federal structure and only four million inhabitants? Second, has the Swiss system worked at all satisfactorily in recent years? Many Swiss deny this and on September 8, 1935, a strong minority voted in favor of a "total revision." As a matter of fact, the "Bundesrat" was able to get along with the "Nationalrat" and the electorate when the disintegrating effects of proportional representation were absent. As long as the majority system was in force, one party had a parliamentary majority—as it still has in the "Ständerat," where the majority system continues to be applied. Harmony between "Bundesrat" and "Nationalrat" was natural under such conditions; harmony between them and the people was not threatened in major matters because the electorate had not yet been exposed to the radicalizing effects of proportional representation. The "Bürger und Bauernpartie" had no influence, there were no Communists and no danger from Frontists and similar parties; the Socialists were forced to be more moderate than Mr. Nicolle can now afford to be in Geneva, and under such conditions everybody knew that political radicalism did not pay. Quite a few Swiss have realized in recent years that proportional representation is their only major political ailment, and that if it were abolished things would be much simpler than they are now.

Furthermore, Mr. Humphreys is inclined to assume that although the German system was not as moderate as he would have desired, it helped the cause of the republic. In his view it gave it "stability"—but the answer that supporters of the majority system might remember is what a Belgian statesman said of proportional representation in the nineties: "Elle engendra la maladie du sommeil."<sup>1</sup> What Mr. Humphreys terms "stability" may also be called "stagnation," and may be set forth as one of the reasons for

<sup>1</sup> Barthélémy, Joseph, *L'organisation du suffrage et l'expérience belge* (Paris 1912) p. 655.

the lack of vitality in German democratic institutions under the republic.<sup>1</sup>

There remains the final question of the comparison of the list system in Czechoslovakia<sup>2</sup> and the German system. Mr. Humphreys thinks that since the German republic and her southern neighbor had the same electoral system, the difference in the fate of the two republics must be accounted for by other factors. To this I can at present answer only briefly.

In the first place, the Czech system is less radical than the German law; the percentages required for the success of minor parties are higher. Second, I was careful to term proportional representation only an "essential condition" for the breakdown of the German republic. One condition may not be sufficient to create a certain result, and yet be essential. In the theory of economic computation, for example, we are concerned with the problem that, according to the assumptions of most economists, the three factors of production, capital, labor and land, cooperate for production. If one of them is absent no result can be achieved. If two factors are given and the third, which had hitherto been lacking, is added, the entire result of the production must be attributed to it; it is the *Schlussgut*. That is what happened in Germany. I do not deny that a more sensible policy on the part of the Allied powers would have given a different aspect to German democracy. It is my contention, however, that both this ill advised foreign policy and proportional representation were necessary for the breakdown of the German republic. If Wirth, Stresemann and Brüning had found as much encouragement as they deserved, the German republic would have survived in spite of proportional representation—although in the crippled form which republican institutions now exhibit in countries like Czechoslovakia, where

<sup>1</sup> *Demokratie und Wahlrecht*, pp. 68, 142.

<sup>2</sup> The Czech system and the havoc which it causes for democracy have been severely criticized by a close observer, Dr. Charles Pergler, who recently wrote, "I have no hesitation in branding it as a species of diluted fascism"; cf. Pergler, Charles, "Modern Dictatorships, Will They Survive?" reprinted from *World Affairs* (December 1936) p. 5.

the ruling group has resorted to a "disciplined democracy" in order to prevent the disintegration of the country, and, incidentally, to preserve their own influence. Hence, in the case of Germany, it was possible both for the policy of the former Allies and for proportional representation to play the part of the *Schluss-gut*. It was not in Germany's power to alter the foreign policy of her former enemies, but a little more consideration would have induced the republican parties in Weimar to listen to the warnings of Friedrich Naumann—death-stricken by his fatal illness and therefore unable to express his fears adequately—that proportional representation and the parliamentary system of government are mutually exclusive. Hence the objection of Mr. Humphreys does not affect my contention.

I had expected Mr. Humphreys to attack the statistical basis upon which I founded my conclusions.<sup>1</sup> Everything, indeed, narrows down eventually to a statistical consideration, and I am convinced that anyone who enters this battleground will find it difficult to refute conclusions such as those drawn by Dr. Schauff<sup>2</sup> and the present writer.<sup>3</sup>

Mr. Humphreys has written his reply in so fine and dispassionate a spirit that I am sincerely sorry that my remarks sound sometimes a little categorical. But I hope that he will forgive me. If one is convinced that no other social institution has been bought at the price of so much blood and tears as proportional representation, some impatience in dealing with this matter may be excusable. For it would seem<sup>4</sup> that proportional representation was responsible for the death of democracy in Austria as well as in

<sup>1</sup> These, incidentally, appeared convincing to M. Mistler when he wrote his report on electoral systems on behalf of the Commission du Suffrage Universel of the French Chamber (No. 6326, Chambre des Députés, Quinzième législature, Session de 1936, particularly pp. 31-35). M. Mistler refers to other instances concerning the effects of proportional representation, which are also important in drawing up the final balance of the gains and losses under the great illusion which proportional representation has turned out to be.

<sup>2</sup> *Neues Wahlrecht*, cited above, pp. 139-54.

<sup>3</sup> *Demokratie und Wahlrecht*, pp. 120-69.

<sup>4</sup> For some of the details cf. the report of M. Mistler.

Germany, that it materially contributed to the victory of fascism in Italy and to the establishment of the dictatorship of General Metaxas in Greece, that it is responsible for most of the disturbances in the operation of democratic institutions in Switzerland, Holland, Belgium (without proportional representation M. Degrelle would be helpless) and the Scandinavian states. Moreover, discussion of the effects of electoral systems has hitherto been a rather one-sided affair. The friends of proportional representation possess powerful organizations which allow them to repeat their arguments again and again and with as many details as they like. Their opponents suffer severely from the fact that public opinion in present-day democracy is organized opinion, and that, as long as they have not at least a small percentage of the funds which are at the disposal of the other side, they can present their opinions only occasionally, through the courtesy of such magazines as *Social Research*, and without making a permanent impression on the public mind. Let us hope that in a not too distant future something will be done to remedy this inequality.

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## BOOK REVIEWS

DAVIS, HAROLD T., and NELSON, W. F. C. *Elements of Statistics, with Applications to Economic Data*. Bloomington, Indiana: Principia Press. 1935. 424 pp. \$4.

Avoiding the stereotyped form of textbooks in statistics, the authors present their problems quite originally, from a pedagogical standpoint, masterfully handling the introduction in using mathematical tools of analysis. There is a freshness throughout the book which makes its reading very stimulating. Even highly technical questions like curve fitting (pp. 211-48) are treated in an elementary way, giving the reader with a minimum of mathematical training the opportunity to become familiar with the problems and their mathematical analysis. There are many examples, carefully chosen and elaborated. This vivid treatment more than compensates for some lack of balance.

The authors are fully aware that "the statistical methodology is no magical instrument that automatically grinds out valid conclusions" (p. 334), but their appreciation of this sound maxim did not find adequate expression in a thorough elaboration of logical and mathematical assumptions, an elaboration which could have called the attention of the reader to crucial points, giving him some possibility of avoiding misinterpretations. In this respect it is particularly to be regretted that the discussion of probability (pp. 146-210) can hardly be considered satisfactory. The treatment is too fragmentary, and neither does it appear in strict logical connection with the preceding chapters nor does it show that it should be the logical and mathematical basis for the following chapters. The analysis of the Poisson and Lexian series seems to indicate that the weakness in the logical chain is not merely due to the manner of presentation. The misleading emphasis in the analysis of these special types of distribution leads to a confusion of the logical and mathematical problems involved and prevents the reader from understanding clearly that the so-called Poisson and Lexian series are only examples of varying probabilities. Poisson's analysis includes much more, namely a general theory of dispersion breaking definitely with the rigid assumption of a constant probability and building the basis of Lexis' theory of stability, the backbone of modern mathematical statistics. The authors are perhaps influenced by some severe criticism of the Lexian approach by his own followers, but then they should not have forgotten the connection between the Lexian ratio and Pearson's "Chi square test," which they characterize as an ingenious method to meas-

ure the satisfactoriness of fit between empirical and theoretical data. It is quite understandable that they have overlooked Bortkiewitsch's remarkable analysis of this relationship, since it was published in a new and special foreign periodical (cf. his paper, "Das Helmertsche Verteilungsgesetz für die Quadratsumme zufälliger Beobachtungsfehler" in *Zeitschrift für angewandte Mathematik und Mechanik*, vol. 2, 1922, pp. 358-75). R. A. Fisher, however, has called attention to the fact that "in the many references in English to the method of Lexis, it has not . . . been noted that the discovery of the distribution of Chi square in reality completed the method of Lexis" (cf. *Statistical Methods for Research Workers*, 4th ed., 1932, p. 82). Pearson's method is described on page 202, the Lexian ratio—much too briefly, in a few lines—on pages 319-20. The reader could hardly realize that between the two approaches exists a close logical connection.

The analysis of the index problem (pp. 100-18) and the analysis of time series (pp. 119-45) follow the traditional treatment; they are incomplete and do not give sufficient weight to recent criticism. The short analysis of mathematical expectation (pp. 160-62) does not take into consideration the fundamental contributions of Chebishov, Markov, Bortkiewitsch and Chuprov, who developed and completed this important field of the modern theory of probability. The discussion of correlation (pp. 249-310) would have been improved if the authors had incorporated the results of Chuprov's contributions.

In spite of these defects the book must be considered as a welcome enrichment of the literature. If the reader will have the patience to follow the authors carefully he will learn a great deal, perhaps more than from any other textbook published in the last few years. The collaboration of a mathematician, Professor Davis, and an economist, Dr. Nelson, seems to have been notably successful. Dr. Nelson's sudden death last year is a distinct loss to science.

EUGEN ALTSCHUL

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WOYTINSKY, WLADIMIR. *Three Sources of Unemployment. The Combined Action of Population Changes, Technical Progress and Economic Development.* [International Labour Office, Studies and Reports, Series C, no. 20.] Geneva. New York: World Peace Foundation. 1935. 166 pp. \$1.25.

At the beginning of this book Woytinsky points out that the development of unemployment is determined by the changes in the employable population, in the productivity of labor and in the vol-

ume of production. These three factors are combined in an equation indicating under what conditions increases in population and productivity will be counterbalanced by an increase in the volume of production. The greater part of the book deals then with the application of this equation to nearly all industrial countries of the world, and many statistical data are given to illustrate how the growth of population, production and the efficiency of labor has influenced the development of unemployment. These developments are traced back, for instance, as far as 1861 for England, 1869 for the United States and 1887 for Germany.

In general the investigation shows that the volume of production in the prewar years increased more rapidly than the output per worker, causing a steady increase in the number of workers employed in manufacturing industries. Since the war, on the contrary, manufacturing and mining have belonged in most countries to the close sections of economy which do not increase their number of employees. This has been due not to an absence of further increase in the volume of production but to an even more rapid growth in the productivity of labor.

It is not difficult, of course, to be critical of certain points. One who knows the statistics of the physical volume of production will understand why the investigations for the earlier periods are based on comparatively meagre statistical material. A more fundamental problem is touched upon when we ask what part of the unemployment of the last depression is to be attributed to the technical factor. Woytinsky believes that after 1929 there was no further increase in productivity in the United States, and that during the depression years "the machines that had crowded human labour out of the factories were themselves scrapped" (p. 55). If this is true, the unemployment since 1929 must be entirely attributed to the decrease in the volume of production. Woytinsky tries to escape this conclusion by saying that there was already technological unemployment before the depression began. This is true for 1927 and 1928, but for 1929, when the volume of production was at the peak, the statistics of the United States do not justify the assumption of a considerable amount of unemployment, and therefore the decline in production must be considered the only cause of the ensuing unemployment. This conclusion can be questioned, however. First, it is not correct to say that there was no further increase in the efficiency of labor after 1929. The output per man-hour in 1932-33 was not less than twenty-five per cent above the 1929 level, a fact which certainly does not support

the thesis that efficient machinery was scrapped during the depression. It is true that the labor displacement resulting from this increase in efficiency was counterbalanced by stretching the work. But this shortening of the labor hours could have counterbalanced a corresponding decrease in the volume of production if it had not been for the further increase in the output per man-hour.

A further question is whether the volume of production is actually an independent factor, as indicated in Woytinsky's formula. He himself says that the labor displacement before the crisis undermined the "stability of the economic system." What can this mean except that the balance between production and purchasing power, and therefore the possibility of marketing, that is, the volume of production itself, is influenced by mechanization? But if the volume of production becomes a function of the technical factor it is obvious that Woytinsky's equation cannot really show the whole relation between technique and unemployment. From the theoretical viewpoint one could even ask whether the volume of production and the efficiency factor in the equation ought not to be replaced by the amount of productive capital employed and the amount of capital needed per wage job. The statistical part of the investigation would then have to deal with the growth of capital and the changes in the capital intensity of production.

This critique will indicate that the relations between technique and unemployment are more complicated and embrace more controversial issues than Woytinsky's method of investigation brings out. Nevertheless, it ought to be said that his statistical investigation makes an unusually useful contribution to the study of the knotty problem of technological unemployment.

ALFRED KÄHLER

SPITALER, ARMIN. *Das Doppelbesteuerungsproblem bei den direkten Steuern*. Reichenberg: Stiepel. 1936. 678 pp.

Elimination of double taxation is one of the many problems in the field of international relations at which a rational solution is arrived with much more difficulty than appears on the surface. Since before the war economists, international organizations and government representatives have been studying the question. Seligmann and von Schanz developed a theory which at present dominates the books. They held that taxation of a non-resident creditor's income is merely an extra burden on the economic life of the taxing state, and therefore they advocate a reciprocal exemption of non-residents from in-

come taxation. This theory emphasizes the fact that income taxation at the source operates like a prohibitive tariff against the free flow of capital. It demands, so to speak, free trade for capital. The opponents of this theory arose in the postwar period. The continental debtor nations soon realized how little the established doctrine served their interest. A reaction set in, which contended that taxation by the state of origin must be considered not merely from the viewpoint of cheap availability of capital, but also from that of fiscal revenues and of the more general political interests, disregarded by the classic theory.

This development has not been reflected as much as should be expected in the studies made by economists and organizations. The League of Nations and the International Chamber of Commerce, which have stood foremost in preparing international regulation, have in the main followed the lead of Seligmann, Stamp and other advocates of the traditional opinion. This seems to be the reason why, although numerous reports have been made and several drafts of treaties have been submitted to the governments, almost no progress has ensued. Obviously no help could be expected from theoretical considerations as long as the conflict was not reflected in the discussion. Dorn, at present the president of the Reichfinanzhof, and Ruoff, were the first to represent the debtor states' viewpoint. Spitaler offers a coherent and systematic representation of the new theory. His book, in other words, is a rationalization of the existing obstacles to a cooperative elimination of double taxation. The new "state-economic theory" is set forth with due recognition of the great work done by the classic theory. This work will prove, it is hoped, a positive contribution toward the badly needed solution of the problem. It brings the actual conflicts into the foreground and opens the way for preparatory work on a more realistic basis. Spitaler's analysis is thorough, his presentation clear and critical. His survey of the taxation system of the British Empire, a painstaking and comprehensive study of enormous material, deserves special mention. The entire material seems to be up to date, except that the quotation of the *Reichsfluchtsteuer* on page 433 was superseded in 1934 by more stringent provisions. Also, a consideration of sections 119 *a* to *e* of the Federal Revenue Acts would have been desirable.

A chapter on legal questions is especially praiseworthy. Statutory formulations of the operative factors determining the imposition of taxation cause much vexation in international practice. Here the problem of "qualification" — so well known in conflicts of law — reappears on the scene. Spitaler takes the only sound position: that the

operative factors of conflict rules should not be expressed in the outworn dogmatic terms of the domestic law. He tries to achieve a more desirable result by finding new and unequivocal descriptions for two terms, "domicile" and "establishment." A discussion of the work done by Herzfeld<sup>1</sup> along the same lines might have been useful.

RUDOLF LITTAUER

MOMBERT, FRANZ. *Die Wirkungen der Kosten-steuern im Konjunkturzyklus*. Hanover. 1935. 126 pp.

This valuable study contributes to the discussion of long neglected problems which lie on the borderline of two branches of economic science: the theories of economic dynamics and of public finance. We might call this field the "dynamics of public finance." Mombert confines this topic by concentrating on cyclical phenomena on the one hand, on "cost taxes" on the other hand. He defines the latter as the taxes which are imposed upon the total of production, as distinguished from consumers' excise taxes, imposed on special products.

In an introductory section the author lays the theoretical foundation for his study. He chooses as a starting point an economy of the industrial type of Germany. He assumes full employment in the upswing, referring thereby primarily to cyclical patterns of the prewar type. The exceptional postwar conditions he deals with only in a final chapter. The later discussion of the shifting of taxation is prefaced here by a useful survey of the elasticity theory as it is elaborated in the Anglo-American and German literature. The section ends with a classification of the various types of cost taxes.

The second, the most important part of the book, deals with cyclical changes in the incidence of taxation. Here the sales tax, the payroll tax, the tax on industrial returns (incidentally also the income tax) and the contributions to unemployment insurance are discussed. The author analyzes the incidence of these taxes and its changes in the various stages of the business cycle. He uses the tools of the modern theory of money and the theory of the economic circuit as they were applied in public finance especially by the school of thought formerly centered in Kiel University. It is a special merit of this study that the author supplements the one-sided view of taxes as a mere burden by a more realistic approach considering also the effects of the various ways of spending the tax revenue. His steady endeavor to distinguish between the short-run and the long-run effects

<sup>1</sup> Herzfeld, Edgar, in *Vierteljahrsschrift für Steuer- und Finanzwesen* (1932) p. 431.

is also to be commended. The results cannot be analyzed here in detail, but to some extent they are in striking contrast to traditional opinions. Even one who does not agree with all the conclusions of the author must admit that most statements are carefully substantiated.

The third part deals with the influence of taxes on capital formation during the cycle. The author distinguishes between direct business or governmental investments, where saving and investment coincide, and saving through credit institutions, which do not necessarily invest the money simultaneously. In this discussion of the influence of taxes on the capital market, expenditures are mentioned only incidentally and are not sufficiently emphasized. Therefore I would question some of the conclusions inferred from this analysis. In the discussion of balancing the budget during the cycle the author favors a policy of bridging the depression deficit by borrowing rather than by a pay-as-you-go policy. He neglects, as most students of the subject do, the automatic variation of expenditures during the cycle (including interest service), although this is important for the fiscal systems of some countries. The last chapter contains some aphoristic conclusions with regard to tax policy during the cycle, and a brief critical survey of the fiscal policies of various countries in recent depressions.

I should like to express the hope that the author will do some further work on the lines of the present study. A more thoroughgoing elaboration of these problems is needed and this first book proves that Mombert is able to do it.

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ENGLÄNDER, OSKAR, and SCHRANIL, RUDOLF. *Finanzwissenschaft und Tschechoslowakisches Finanzrecht*. Brunn: Rohrer. 1935. 503 pp. Paper, 15 RM.; cloth, 17 RM.

This book combines a systematic approach to public finance, especially taxation, with a comprehensive description of the Czechoslovakian budget, tax legislation and tax administration. The book, especially the theoretical part, is written with great simplicity and clarity. The chapter on shifting of taxation offers an original contribution to the subject. And yet there remain some questions.

I should like to mention first something that appears to me as a methodological flaw. The author repeatedly assures us that excise taxes burden all incomes proportionally (pp. 90 and 110). If we investigate how this striking conclusion has been reached we find the demand (p. 87) that "the system of excise taxation should [!] be established

in such a way that the life necessities are not overburdened." Thus a stipulation concerning what ought to be done serves as a basis for a general statement. And this stipulation is in striking contrast to the facts, since most of the excise taxes in Czechoslovakia are taxes on life necessities (pp. 289 ff.), so that the regressive character of excise taxation can scarcely be questioned.

The author bases his theory of shifting on the axiom that the supply of goods (p. 79) and the general price level (p. 86) cannot be changed through taxation. If the prices of taxed goods increase, other prices must decline correspondingly. This argument shows the consequences of entirely neglecting public expenditures in a theory of the shifting of taxation (I may mention that in this book of more than 500 pages only about 10 pages deal with expenditures). If an additional tax revenue is used, for instance, for financing an increased army the quantity of goods supplied for the market can be diminished and the level of prices can go up. I conclude that the very astonishing general statement that excise taxation does not burden the consumer as such (pp. 79, 80, 85) does not seem to be valid. By this criticism I do not intend to disparage this work as a whole, however, for it has a great didactic value and is a useful source of information.

GERHARD COLM

**BRIEFS, GOETZ.** *Betriebsführung und Betriebsleben in der Industrie. Zur Soziologie und Sozialpsychologie des modernen Grossbetriebs in der Industrie.* Stuttgart: Ferdinand Enke. 1934. 155 pp. 7.50 RM.

Professor Briefs founded in 1928 the Institute for Industrial Relations (Institut für Betriebssoziologie) at the Technische Hochschule in Berlin-Charlottenburg. A series of valuable monographs, dealing with the history of industrial relations and with their structure in particular industries in Germany, have come from that institute. The present study, which is a comprehensive elaboration of Briefs' article on "Betriebssoziologie" published in the *Handwörterbuch der Soziologie*, analyzes in systematic terms the social relations in big industrial plants. The combination of the theoretical and historical approaches has led the author to stress the influence of the social structure upon life in industry. Social stratification and the mores, in terms of which the social environment is taken into account, sometimes determine the structure of human relations in industry, while at other times the development may be autonomous. Such autonomy implies that human relations in industry assume forms which can neither be derived from nor transferred to any other domain of life. Thus, since man is more

than an industrial being, they comprise a good part of the problems of modern society.

These "categorical" forms of human industrial relations have their source in the worker's alienation (*Verfremdung*) from property and work, an alienation which rests on the technological conditions and organizational requirements of modern production and is therefore independent of the particular social structure in which it exists.

The decisive feature of the alienation from property is not the bare fact that the worker is propertyless but rather the fact that he is deprived of a chance to develop self-esteem and a sense of personal worth through the actual handling of property. In industrial society property is not concrete or surveyable, and its psychological effects cannot be removed by legal changes in rights. The alienation from work, which follows from mechanization and specialization, implies the impossibility of attaining through work any concrete relations with the product as a whole. To these alienations must be added the relative impersonality of relations among those who cooperate in the factory, and finally what Briefs calls the *Verfremdung des Werkraums*, that is, the general separation of the working and living environments; factories are built for machines, or at least without any primary regard for the men who work in them.

One misses in the book an appraisal of the human implications of the Soviet Russian industrial order, though such an appraisal might be expected in a book distinguished by its comparative historical method. Professor Briefs alludes to "fantastic" attempts to construct the whole of life after the autonomous industrial pattern shaped by technology; yet he devotes but a few pages to the Russian efforts to overcome the various "alienations." His brevity in this respect contrasts with his rather lengthy treatment of social reformers such as Freese, Owen, Rosenstock and others. A comprehensive treatment of the far more instructive Russian material, especially with regard to the use and efficacy of non-economic incentives, would have lengthened the perspective of Briefs' discussions of discipline, authority, hierarchy and social distance in industry.

Not only because of its wealth of historical comparisons but also because of its specifically German and Catholic point of view this thoughtful book is worth reading as a supplement to the studies by Mayo and Whitehead which testify to the progress American social science has made in dealing with the problem of maladjustment in industry.

HANS SPEIER

NITZSCHKE, HEINZ. *Die Geschichtsphilosophie Lorenz von Steins. Ein Beitrag zur Geistesgeschichte des Neunzehnten Jahrhunderts.* Munich: R. Oldenbourg. 1932. 145 pp. 6 RM.

Outside of Germany the importance of Lorenz von Stein and his works is nearly unknown. W. A. Dunning, who has made a special study of German political thought, gives a section to Stein,<sup>1</sup> but this is an exception. Even Sidney Hook<sup>2</sup> mentions Stein only very briefly in connection with the often discussed problem of the priority of Marx's or Stein's materialistic conception of history. But, strangely enough, a comprehensive and detailed study of the life and the intellectual development of Stein is lacking also in Germany, although he is generally acknowledged in that country as one of the most important and interesting scholars of the nineteenth century. It may be noted in passing that German historiographical works are inclined to emphasize Stein's importance as a sociologist, whereas among the sociologists he is considered as an interesting historian.

Therefore a more detailed examination of Stein's position is welcome. Although the title of Nitzschke's study seems to suggest that he deals with only one aspect of Stein's thought, he has chosen Stein's philosophy of history because he considers it to be the nucleus of Stein's intellectual attitude. Nitzschke's tendency to give a comprehensive critical estimate can be seen also in the emphasis which he gives to Stein's relation to the general intellectual trends of the nineteenth century. As Nitzschke's subtitle indicates, his study is meant as a "contribution to the intellectual history of the nineteenth century," and this, I believe, is the best point of departure for an examination of Stein's thought.

The principal achievement of Lorenz von Stein is that he stimulated the foundation of a German sociology. It is Nitzschke's contention — which I believe is fully justifiable — that inasmuch as Stein's sociology does not confine itself to an examination of the forms of historical and social developments but comprehends also their substance, it is really a philosophy of history. For Stein, sociology is not one among other studies, but the fundamental of the whole system of sciences. It occupies the position which philosophy holds in Hegel's system of absolute knowledge. The close relationship between Stein's system and the Hegelian philosophy is very clearly shown. It is true

<sup>1</sup> In his *A History of Political Theories from Rousseau to Spencer* (New York 1930) pp. 377-86.

<sup>2</sup> From *Hegel to Marx, Studies in the Intellectual Development of Karl Marx* (New York 1936) p. 199.

that Stein deviates from Hegel. Whereas the latter emphasizes the importance of ideas, Stein considers interest as the driving force of history; he considers history not as the history of the state, but as the history of society; and he emphasizes the class character of the state. But even these deviations are really a continuation of Hegel's thought. Nitzschke's exposition shows the influences which led Stein beyond Hegel to the development of his own conclusions. For Stein was a Hegelian of that generation in which the contemplative conservatism of the founder had changed to radical political activism. Furthermore, Stein's thought was modified through the influence of the German historical school and the theories of the French socialists. That Stein's original theories resulted from the combination of these different factors is clearly brought out in Nitzschke's systematic exposition of Stein's philosophy of history and in a biographical sketch in which he gives the main facts of Stein's connection with these movements.

Stein's life shows a striking inconsistency in his political attitude. He changed from liberalism to revolutionary radicalism, from radical-

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ism to romantic conservatism. The same inconsistency may be found in the variety of his scholarly interests, which led him from history to sociology, to economics, to political science. In spite of the wide range of his knowledge and the brilliancy of his ideas, it is very difficult to assign him a definite place in any one field of knowledge. Nitzschke's study gives the definite impression that Stein was so deeply involved in the idealism of the Hegelian philosophy that, in spite of his realistic inclinations, he could not overcome his idealistic tendencies and was therefore unable to found a system on a realistic basis, as Marx has done. In contrast to Marx, Stein belongs intellectually to the idealists of the nineteenth century.

Although Nitzschke could not solve all the questions which are connected with the significance of Lorenz von Stein, his book gives the much needed basis for a more exact study of this important figure in the development of sociological thought.

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